

1 C. Dondzila

2 UNITED STATES BANKRUPTCY COURT

3 SOUTHERN DISTRICT OF NEW YORK

4 Case No. 12-12020(MG)

5 _____

6 In re:)

7 RESIDENTIAL CAPITAL, LLC,)

8 et al)

9 Debtors.)

10 _____)

15 DEPOSITION OF CATHY DONDZILA

16 Washington, D.C.

17 October 17, 2013

19 Yellow Highlighting = JSN Designation

Pink Highlighting = Plaintiff's Designation & Counter-Designation

20 Orange Highlighting = Joint Designation

24 Reported by: Mary Ann Payonk, NCRR

25 Job No. 66921

1 C. Dondzila
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5 October 17, 2013
6 10:04 a.m.
7

8 Deposition of CATHY DONDZILA, held at
9 the law offices of Morrison & Foerster, 2000
10 Pennsylvania Avenue, N.W., Washington, D.C.,
11 pursuant to Notice before Mary Ann Payonk,
12 NCRR, Nationally Certified Realtime Reporter
13 and Notary Public of the District of Columbia.
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1 C. Dondzila

2 APPEARANCES:

3 ON BEHALF OF DEBTOR and THE WITNESS:

4 JEFFREY LIPPS, ESQUIRE

5 CARPENTER LIPPS & LELAND

6 280 Plaza

7 Columbus, OH 43215

8

9 ON BEHALF OF THE COMMITTEE OF UNSECURED

10 CREDITORS:

11 P. BRADLEY O'NEILL, ESQUIRE

12 KRAMER LEVIN NAFTALIS & FRANKEL

13 1177 Avenue of the Americas

14 New York, NY 10036

15

16 ON BEHALF OF JUNIOR SECURED LENDERS:

17 DAN PERRY, ESQUIRE

18 HAILEY DeKRAKER, ESQUIRE

19 MILBANK TWEED HADLEY & McCLOY

20 One Chase Manhattan Plaza

21 New York, NY 10005

22

23

24

25

1 C. Dondzila

2 Appearances (Cont'd.):

3 ON BEHALF OF ALLY:

4 JODI WU, ESQUIRE

5 KIRKLAND & ELLIS

6 655 Fifteenth Street, N.W.

7 Washington, D.C. 20005

8

9 ON BEHALF OF DEBTORS:

10 ALEXANDRA STEINBERG BARRAGE, ESQUIRE

11 ROBERT BAEHR, ESQUIRE

12 MORRISON & FOERSTER

13 2000 Pennsylvania Avenue, N.W.

14 Washington, D.C. 20006

15

16

17 ON BEHALF OF WELLS FARGO

18 MARK SILVERSCHOTZ, ESQUIRE (By phone)

19 ReedSmith

20 599 Lexington Avenue

21 New York, NY 10022

22

23

24

25

1 C. Dondzila

2 Appearances (Cont'd.)

3 ON BEHALF OF BONY MELLON TRUST COMPANY NA AS

4 TRUSTEE FOR INDENTURED TRUSTEE:

5 JAMES MOORE, ESQUIRE (By phone)

6 DECHERT

7 1095 Avenue of the Americas

8 New York, NY 10036

9

10 ALSO PRESENT:

11 Jordan Mummert, Legal Video Specialist

12 Jennifer Scoliard, Esquire

13 V.P., Assistant General Counsel

14 Ocwen Financial Corporation

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1 C. Dondzila

2 THE VIDEOGRAPHER: This is the
3 start of the tape labeled number 1 of
4 the videotaped deposition of Cathy
5 Dondzila In Re: Residential Capital LLC.

6 This deposition is taking place at
7 2000 Pennsylvania Avenue, Northwest,
8 Washington, D.C. on October 17, 2013, at
9 approximately 10:04 a.m.

10 My name is Jordan Mummert from
11 TSG Reporting, Inc. I'm the legal video
12 specialist.

13 The court reporter is Mary Ann
14 Payonk, in association with
15 TSG Reporting.

16 Will the counsel please introduce
17 yourselves?

18 (Whereupon, counsel placed their
19 appearances on the video record.)

20 THE VIDEOGRAPHER: The reporter may
21 swear the witness.

22

23

24

25

1 C. Dondzila

2 CATHY DONDZILA,

3 called as a witness, having been duly
4 sworn, was examined and testified as
5 follows:

6 EXAMINATION

7 BY MR. PERRY:

8 Q. Good morning, Ms. Dondzila.

9 A. Good morning.

10 Q. So have you been deposed before?

11 A. I have not.

12 Q. Let me just go over a few of the
13 ground rules for you.

14 I'm going to be asking you some
15 questions. You're going to be giving answers.
16 For the court reporter to take everything down,
17 I'd ask that you let me finish my question
18 before you start giving an answer. If you
19 remember verbal responses, she can't take down
20 head nods and the like. And I'll try and
21 remind you as we go through the day.

22 If you don't understand one of my
23 questions, please let me know and I'll do my
24 best to rephrase it and make it more clear to
25 you.

1 C. Dondzila

2 If you have a concern or a question
3 about privilege, you're entitled to consult
4 with your counsel. Otherwise, you may be
5 hearing objections being made during the course
6 of the deposition. I'd ask that you answer the
7 question unless the objection involves
8 privilege.

9 Do you have any questions?

10 A. I do not.

11 Q. Okay. Can you give me a run-through
12 of your resume?

13 A. I am a graduate of Washington
14 University in St. Louis, graduating in December
15 of 1983. Immediately went into the employ of
16 Touche Ross, now Deloitte & Touche. Worked
17 with them for approximately nine years, left
18 for a short turn with Credit Suisse First
19 Boston in their internal audit department, and
20 after probably six or eight months, left Credit
21 Suisse First Boston and joined Bear Stearns.
22 Left Bear Stearns in January of 2004 to join
23 Freddie Mac, and in 2006 left Freddie Mac, did
24 some private consulting with various clients,
25 including GMAC, now Ally Financial, and in I

1 C. Dondzila

2 believe April of 2008 joined Residential
3 Capital as a full-time employee. And left
4 there in February of 2013 and am now employed
5 at Ocwen Financial.

6 Q. So let's go back. Did you obtain a
7 degree from Washington University?

8 A. I did. I have a Bachelor of Science
9 with a concentration in accounting and finance.

10 Q. Are you a CPA?

11 A. I have passed the CPA exam. I am not
12 active.

13 Q. Do you currently hold any
14 professional licenses?

15 A. I do not.

16 Q. And other than the CPA license, have
17 you ever held any other professional licenses?

18 A. I have. When I was at Bear Stearns,
19 I believe, I had several Series 7, and there
20 could have been another possibly Series 63. I
21 don't remember exactly the number, but I did
22 have some licenses at Bear Stearns.

23 Q. And what did you do at Touche Ross?

24 A. I was a member of the audit
25 department and progressed from assistant to

1 C. Dondzila

2 senior manager performing audits for various
3 clients.

4 Q. And what did you do at Credit Suisse?

5 A. I was a manager in the internal audit
6 department.

7 Q. And how about at Bear Stearns?

8 A. I was part of the accounting
9 department, progressing through the course of
10 my career to be the senior managing director,
11 business unit, controller for fixed income
12 sales and trading.

13 Q. And what was your position at Freddie
14 Mac?

15 A. I was a senior vice president,
16 business unit -- I forgot if we called
17 ourselves business unit controllers or business
18 unit accountants, but I was responsible for all
19 of the accounting for the various business
20 units within Freddie Mac.

21 Q. What was the nature of the private
22 consulting work that you did for GMAC before
23 you started there?

24 A. I was engaged to assist with a
25 corporate objective of improving their close

1 C. Dondzila

2 process and worked to project manage across the
3 organization to achieve that objective.

4 Q. And when you start with -- did you
5 start with ResCap in 2008?

6 A. In --

7 Q. Let me ask this. What entity did you
8 begin work for in April 2008?

9 A. I was employed by ResCap in 2008.

10 Q. And did you remain employed by ResCap
11 for the entirety of your employment?

12 A. I did not. There was a period of
13 time where we were switched to become employees
14 of Ally, GMAC at that point, but now Ally
15 Financial. And subsequently, we were then
16 rebadged back to ResCap.

17 Q. Did your job responsibilities change
18 when you were switched to Ally?

19 A. No.

20 Q. What were your responsibilities
21 during the first time that you were employed at
22 ResCap?

23 A. I started as the controller for the
24 residential finance group, which was a segment
25 then of ResCap.

1 C. Dondzila

2 Q. Do you know what entities, legal
3 entities were housed in the residential finance
4 group?

5 A. It would have cut across various
6 legal entities, the most significant of which
7 would have been GMAC Mortgage Corporation and
8 Residential Funding Company, but would have
9 included activities that were recorded and
10 executed by other subsidiaries of those two
11 entities.

12 Q. Did your title as controller for the
13 residential financial group change during your
14 five years with ResCap and Ally?

15 A. My role and my title did change, yes.

16 Q. Okay. When did that change occur?

17 A. The -- I believe it would have been
18 in January or February of 2009. The
19 then-controller of Residential Capital resigned
20 and I was asked to take that role, which I did,
21 and so in early 2009, I would have stepped into
22 the role of controller for Residential Capital.

23 Q. And what additional responsibilities
24 were involved in being the controller of
25 Residential Capital?

1 C. Dondzila

2 A. There were a variety of segments
3 within Residential Capital, so within my role I
4 would have been responsible for the entire
5 consolidated results -- the accounting process
6 related to the entire consolidated results, and
7 additionally, the preparation and review and
8 issuance of financial statements for
9 Residential Capital and any of its subsidiaries
10 that required separate financial statements.

11 Q. Why did -- which of Residential
12 Capital's subsidiaries required separate
13 financial statements?

14 MR. LIPPS: At what particular
15 point in time?

16 MR. PERRY: From 2009 forward.

17 A. Residential Capital as a condition of
18 their indentures and as, at the time, a
19 registered public company with the SEC, GMAC
20 Mortgage in connection with its various state
21 licenses, certain of its liquidity facilities
22 and certain of its other contracts, including
23 HUD and Ginnie Mae, Residential Funding Company
24 for similar reasons as GMAC Mortgage, Ditech, I
25 believe it was Ditech Financial but I may not

1 C. Dondzila

2 be getting the full name of that entity
3 correct, but Ditech again for state licenses.
4 And I don't know exactly what year Homecomings
5 Financial stopped issuing financial statements.
6 It may have been 2008 was the last set of
7 financial statements for Homecomings, but
8 Homecomings Financial also as part of its
9 licensed activities had separate company
10 financial statements prepared.

11 Q. Why did Homecomings stop issuing
12 separate financial statements?

13 A. All of its business activities were
14 sold, transferred, or discontinued, and it no
15 longer had any licensing requirements that
16 required financial statements.

17 Q. Was Homecomings -- when you say
18 Homecomings, are you referring to Homecomings
19 Financial LLC?

20 A. Yes.

21 Q. Did it stop conducting business
22 activities in or around 2008?

23 A. I don't know the exact year that it
24 stopped doing its business activities.

25 Q. And at the point that it stopped

1 C. Dondzila

2 doing its business activities did it maintain
3 any assets?

4 A. It did.

5 Q. And what were its assets?

6 A. I don't know.

7 Q. And do you know why it wasn't wound
8 up at the point in time when it stopped doing
9 business?

10 A. Homecomings was listed as the named
11 servicer for a variety of different, I believe
12 private label securitizations, and the cost,
13 effort, and exercise of having that changed was
14 prohibitive, but until that was completed, it
15 could not be shut down.

16 (Dondzila Exhibit No. 1 was marked for
17 identification.)

18 BY MR. PERRY:

19 Q. Before you is Deposition
20 Exhibit Dondzila 1. It purports to be a
21 consolidated financial statement for
22 Homecomings Financial LLC for the year ended
23 December 2008. I'll represent to you,
24 Ms. Dondzila, that we've looked in the
25 production of documents that have been made in

1 C. Dondzila

2 the case. This is the last financial statement
3 for Homecomings that we see produced. Can you
4 just take a moment to review it?

5 My question to you is: Do you have
6 any reason to believe that financial statements
7 were prepared for Homecomings at any point
8 after the year ended December 31, 2008?

9 MR. LIPPS: Objection. I think she
10 answered that before, but go ahead.

11 A. I have no reason to believe that
12 financials would have been issued for
13 Homecomings Financial LLC after the period
14 presented.

15 Q. And in terms of Homecomings' assets,
16 are you able to identify from your review of
17 Dondzila Exhibit 1 the nature of Homecomings'
18 assets, at least as of year ended December 31,
19 2008?

20 MR. LIPPS: Objection to form. Go
21 ahead.

22 A. I can review and see the balance
23 sheet as presented, the consolidated balance
24 sheet, and could recite certainly the assets
25 and liabilities presented.

1 C. Dondzila

2 Q. Well, there's a notation on the
3 balance sheet -- and this for the record is the
4 page stamped 2 and Bates labeled 122168. Do
5 you see there it says affiliate receivables
6 net? Is that a billion-dollar number?

7 A. The amount presented is
8 \$1,051,047,000.

9 Q. Okay.

10 A. Rounded, presented in thousands.

11 Q. And do you know the nature of the
12 affiliate receivable that was carried on the
13 balance sheet of Homecomings?

14 A. I don't recall.

15 Q. Do you know which entities owed funds
16 to Homecomings?

17 A. I don't know that without either
18 closer review of the financial statements in
19 the event that it's disclosed. I don't know
20 that.

21 Q. Do you know whether there was ever
22 any attempt to reconcile or pay, cash-settle
23 the affiliate balances with Homecomings LLC?

24 A. There were monthly activities that
25 ensured that balances between affiliates

1 C. Dondzila

2 reconciled, so I can confirm that there would
3 have been reconciliation activities that
4 occurred.

5 I am not aware of any activities
6 related to settlements or payments related to
7 those.

8 Q. Are you aware of any debt forgiveness
9 with respect to Homecomings Financial LLC?

10 A. No.

11 Q. Is it correct that Homecomings
12 Financial LLC was a guarantor on the junior
13 secured notes, to your knowledge?

14 A. Not that I recall.

15 Q. Did the -- did your department
16 maintain a list or an organizational chart that
17 identified which entities served as guarantors
18 and borrowers under the various facilities that
19 the Residential Capital business had in place?

20 A. We would have as part of our SEC
21 filings been required to provide schedules that
22 identified guarantor entities.

23 Q. Did there come a time when -- strike
24 that.

25 Did there come a time when you and

1 C. Dondzila

2 the people that reported to you began to
3 scrutinize the intercompany balances among the
4 various entities under Residential Capital LLC?

5 A. As I mentioned earlier, there would
6 have been monthly activities that would have
7 reconciled to ensure that all intercompany
8 balances and activity was properly eliminated
9 and also that any balances reconciled. So that
10 would have been an ongoing, recurring close
11 activity.

12 Separately, at some point, Ally --
13 well, sorry. So we would have then
14 periodically had occasion to review
15 intercompany balances and other intercompany
16 activities to the extent that we were looking
17 at solvency and calculating various
18 calculations for adjusted net worth, which
19 would have occurred on a monthly basis, because
20 we had to first off make sure that all entities
21 were solvent under the definition as provided
22 in the legal documents and contracts.

23 We also would have had as applicable
24 calculations of adjusted net worth which did
25 involve in certain states, in certain

1 C. Dondzila

2 instances, evaluations of intercompany
3 balances.

4 We would have also, in connection
5 with the dissolution of entities and legal
6 entity minimization type initiatives on behalf
7 of the organization, would have looked at, had
8 occasion to look at intercompany balances.

9 We would have also looked at
10 intercompany balances if or when there were
11 circumstances that suggested we might need to
12 use debt forgiveness as a means of maintaining
13 compliance with adjusted net worth calculations
14 and regulatory compliance with requirements.

15 We also then separately, sometime in
16 2012, as a result of the implementation of our
17 parent, Ally Financial, of a certification
18 requirement, and also due to the issuance of a
19 policy, would have undertaken an initiative to
20 determine whether or if we were in compliance
21 with that policy, and in order to support our
22 certification.

23 Q. Okay. Let me try and unpack that a
24 little bit.

25 Focusing on the first item that you

1 C. Dondzila

2 referenced in your prior answer, as I
3 understood it, you -- there was an effort on
4 the part of the controller's office to make
5 sure that all of the entities under the ResCap
6 LLC umbrella were solvent. Is that correct?

7 MR. LIPPS: Objection. Go ahead.

8 A. We monitored for solvency as part of
9 the requirements of various of our liquidity
10 facilities.

11 Q. And which of your liquidity
12 facilities had solvency requirements in them?

13 A. The Ally Financial revolver, Ally
14 Financial line of credit, and then I believe
15 by -- at some point, all other liquidity
16 facilities had it in large part because they
17 all began to reference, mirror and sort of
18 attach to each other in some fashion, so if
19 changes were made to one, they were effective
20 for all.

21 Q. And when you say monitor for
22 solvency, what do you mean by that?

23 A. The definition of solvency was
24 prescribed within each of the documents, and we
25 would, on a monthly basis, be required to

1 C. Dondzila

2 ensure that each entity to which that solvency
3 requirement applied met the threshold.

4 Q. And was there a document that you had
5 that you would refer to that contained the
6 definition of solvency prescribed in the
7 documents?

8 A. Yes.

9 Q. Did you look at the lending documents
10 themselves, or did you have some form of sheet
11 that provided a test for you?

12 A. There was a sheet that was circulated
13 by the treasury department that had summaries
14 of the relevant certification requirements
15 under each of the agreements that we used.

16 Q. And for purposes of making your
17 solvency determination, did you consider
18 intercompany balances for each of the
19 individual entities for which you were
20 evaluating solvency?

21 A. They would have formed assets or
22 liabilities of the entities as recorded and so
23 they would have been considered. There were no
24 special adjustments for them, but they would
25 have been considered as assets or liabilities

1 C. Dondzila

2 of the respective companies.

3 Q. Okay. So just to be clear, when you
4 were evaluating solvency of, let's just say,
5 GMAC Mortgage LLC, any receivables that GMAC
6 Mortgage had from its affiliates pursuant to an
7 intercompany was taken as an asset for purposes
8 of your solvency analysis; correct?

9 A. That's correct.

10 MR. LIPPS: Objection to form.

11 A. Sorry.

12 Q. And do you -- maybe I asked this
13 before, and if I did, I apologize. Do you
14 recall which of the entities were monitored for
15 solvency, let's just say, in 2009 forward?

16 A. I don't recall all of them.

17 Obviously, GMAC Mortgage and Residential
18 Funding Company were part of that, but there
19 were certainly other entities that were
20 monitored under those provisions.

21 Q. Was GMAC Residential Holding Company
22 LLC monitored for solvency purposes?

23 A. I don't recall.

24 Q. Was Home Connects Lending Services
25 LLC monitored for solvency purposes?

1 C. Dondzila

2 A. I don't recall.

3 Q. Was Passive Asset Transactions LLC
4 monitored for solvency purposes?

5 A. I believe, yes, that that entity was.

6 Q. Was Residential Capital LLC monitored
7 for solvency purposes?

8 A. Yes.

9 Q. And was Executive Trustee Services
10 LLC monitored for solvency purposes?

11 A. I don't recall.

12 Q. Was RFC Asset Holdings II LLC
13 monitored for solvency purposes?

14 A. I don't recall.

15 Q. And was Homecomings Financial LLC
16 monitored for solvency purposes?

17 A. I don't recall.

18 Q. Okay. Turning to the -- you've
19 testified there was solvency monitoring for
20 purposes of the liquidity facilities. You also
21 referenced regulatory compliance requirements
22 with certain states. Can you explain what you
23 meant by that?

24 A. In connection with the state licenses
25 held by one or more of the entities within the

1 C. Dondzila

2 ResCap family, states would have a variety of
3 different requirements, some of which were
4 financial, and a member of my team would
5 monitor the financial requirements that
6 could -- and those states could involve
7 establishment of a minimum net worth amount,
8 each having their own definition of net worth.
9 We did not monitor every state license
10 requirement. We monitored the most restrictive
11 of them.

12 In certain states, there were also
13 requirements that could be linked to the size
14 of the serviced portfolio. That was also
15 monitored by us, and that would set sort of the
16 amount of net worth that was required to be
17 held.

18 Q. Now, did the state solvency
19 requirements or the state net worth
20 requirements, were they -- were the
21 requirements the same or did they vary from
22 state to state?

23 MR. LIPPS: Objection, asked and
24 answered. Go ahead.

25 A. They varied by state.

1 C. Dondzila

2 Q. Okay. And what about on a
3 state-to-state basis, were the assets and
4 liabilities you could consider for purposes of
5 the net worth analysis the same or did they
6 differ?

7 A. Each had their own definition of what
8 was allowable and what went into the
9 calculation or didn't.

10 Q. And is it fair to say that in some
11 states, intercompany balances were allowable
12 and in other states, they were not, for
13 purposes of the net worth calculation?

14 A. Yes, that's fair to say.

15 Q. Now, you also referenced a -- let me
16 back up for a second.

17 Was there -- would Residential
18 Funding have to make an affirmative
19 certification to the various state regulators
20 as a result of the net worth analysis that you
21 did?

22 A. I don't know if there were any
23 affirmative certifications that were provided.

24 Q. Who would have provided those
25 certifications if they were required?

1 C. Dondzila

2 A. People in the compliance department.

3 Q. And would you send the results of the
4 analysis that your department did on net worth
5 to the compliance department on a regular
6 basis?

7 A. I don't know if we sent them the
8 actual results or if we just sent a
9 notification that we were in compliance.

10 Q. And who from the compliance
11 department was in charge of ensuring compliance
12 with the adjusted net worth requirements of the
13 various states?

14 A. I don't recall who in compliance did
15 that.

16 Q. You also mentioned in your answer a
17 certification requirement that came down in
18 2012. What did you mean by that?

19 MR. LIPPS: Objection, form. But
20 go ahead.

21 A. In connection with the issuance of
22 their public financials on a quarterly and
23 annual basis, Ally Financial required each of
24 the business segments, as they define them, to
25 provide certifications in support of the

1 C. Dondzila

2 signatures that executives would be -- and
3 affirmations that executives of Ally Financial
4 would be making in connection with those
5 financial statements.

6 A component of those certifications,
7 in 2012, there was a part that was added that
8 related to compliance with the recently issued
9 intercompany accounting policy.

10 Q. Do you know what led to the issuance
11 of an intercompany policy in 2012?

12 A. I don't recall.

13 Q. Do you recall the nature of that
14 policy?

15 A. No.

16 Q. In terms of certifying compliance
17 with the policy, did you have occasion to
18 evaluate whether the intercompany balances that
19 were reflected on ResCap's books and records
20 were actually collectable?

21 A. I don't recall all of the specific
22 requirements of the policy.

23 Q. Was it more than simply ensuring that
24 intercompany balance is eliminated in
25 consolidation?

1 C. Dondzila

2 MR. O'NEILL: Objection, form.

3 A. I don't recall all the components of
4 the policy.

5 (Dondzila Exhibit No. 2 was marked for
6 identification.)

7 BY MR. PERRY:

8 Q. Before you, Ms. Dondzila, is Dondzila
9 Deposition Exhibit 2. It's an email with an
10 accompanying Excel spreadsheet. It bears the
11 Bates label RCUCCJSN20085254. Can you just
12 take a moment to familiarize yourself with the
13 document?

14 Have you completed your review of
15 Dondzila Exhibit 2?

16 A. I have.

17 Q. First question: The subject line --
18 well, who's Barbara Westman?

19 A. Barbara Westman at the time of this
20 email, February 23, 2012, was reporting to me
21 as a senior director of accounting operations
22 and compliance.

23 Q. And she writes you an email with the
24 subject line "Intercompany Questions."

25 First question: Who was it that had

1 C. Dondzila

2 raised questions about intercompanies in or
3 around February of 2012?

4 A. I don't recall.

5 Q. Do you know for what purpose the
6 Excel spreadsheet attached to the email in
7 Dondzila Exhibit 2 was prepared?

8 A. I do not.

9 Q. And if you go to the first page of
10 the spreadsheet, there's some analysis of five
11 intercompany balances. Do you see that?

12 A. I do.

13 Q. Focusing in the first instance on the
14 description of the balance between Residential
15 Capital and GMAC Residential Holdings, you see
16 it says, "This balance acts as an LOC where
17 GMACM can borrow funds, or contribute funds to
18 ResCap as needed. This borrowing is funneled
19 through its parent, Resi Holdings." Do you see
20 that?

21 A. I do.

22 Q. Do you understand the term LOC to
23 mean letter of credit?

24 A. I do.

25 Q. And is this, in your view, an

1 C. Dondzila

2 accurate statement of how the balance between
3 Residential Capital and GMAC Residential
4 Holdings functioned in or around February 2012?

5 A. Can you repeat the question, please?

6 Q. Is the description contained on this
7 document consistent with your understanding of
8 how the intercompany balance between GMACM or
9 GMAC Residential Holdings and Residential
10 Capital functioned in 2012 and previously?

11 A. Yes, I would say that that's
12 consistent for the period of time that I was
13 part of ResCap. I cannot speak to any time
14 prior to my taking a permanent role within
15 ResCap.

16 Q. Okay. And focusing your attention on
17 the description one down of the Residential
18 Capital/Residential Funding Company
19 relationship, would you agree that that
20 relationship was similar to the Residential
21 Capital/GMAC Residential Holdings intercompany
22 balance, at least insofar as the balance acted
23 as a letter of credit where Residential Funding
24 Company could borrow funds or contribute funds
25 to ResCap as needed?

1 C. Dondzila

2 MR. LIPPS: Objection to form.

3 A. I first need to correct my earlier
4 agreement with your statement that it's a
5 letter of credit. I would actually call it a
6 line of credit, not a letter of credit. But I
7 would say that it -- again, for the period of
8 time that I was there, this relationship would
9 have been similar between Residential Capital
10 and Residential Funding Company to the one
11 above.

12 Q. Okay. And just so I understand it,
13 the main operating companies were GMACM and
14 Residential Funding Company; correct?

15 A. Those were the primary operating
16 companies, yes.

17 Q. And when they needed capital, they
18 were able to access it from Residential Capital
19 LLC through intercompany transfers; correct?

20 A. Residential Capital, as the holding
21 company that issued public debt, would then use
22 those funds, yes, would deploy those funds into
23 its operating companies, Residential Funding --
24 principally, Residential Funding Company and
25 GMAC Mortgage.

1 C. Dondzila

2 Q. And the concept was it was like a
3 line of credit where, when the operating
4 companies needed money, they'd have access to
5 it, and then when they -- conversely, when they
6 generated funds, they would upstream them to
7 the parent in satisfaction of the line of
8 credit; correct?

9 MR. LIPPS: Objection to form.

10 A. I don't believe that I can
11 definitively state that the repatriation of
12 cash back was, in fact, in a form intended to
13 be a repayment. It was cash that was cycled
14 up -- back to the holding company, but I
15 would -- I do not have knowledge that it was
16 specifically and solely intended to function as
17 a repayment of debt.

18 Q. Okay. But whatever the intention
19 was, the cycling of cash up would result in a
20 reduction of the line of credit; correct?

21 A. That is correct.

22 Q. Looking at the third balance between
23 Residential Funding and Homecomings Financial,
24 it says the majority of this balance was
25 created in 2008 when loans were sold from

1 C. Dondzila

2 Homecomings to its parent. No cash was
3 exchanged.

4 Do you have any knowledge of how the
5 Homecomings intercompany balance was created?

6 A. I don't have detailed knowledge of
7 how that balance was created, no.

8 Q. And by this point in time, the only
9 reason that Homecomings had not been wound up
10 was because of the testimony you provided
11 earlier about it being prohibitively expensive
12 to do so, given its role as servicer under
13 certain of the private label securitizations
14 and other related issues; correct?

15 MR. LIPPS: Objection, form,
16 characterization. And it's already been
17 asked and answered and testified to by
18 her. Go ahead.

19 A. I don't believe that my response was
20 solely limited to the prohibitive expense.
21 There were also administrative and other issues
22 in addition to expense, so it wasn't solely
23 limited to just the cost of doing it.

24 But my understanding is that that was
25 a significant reason for why those were not --

1 C. Dondzila

2 Q. Okay.

3 A. -- liquidated. That entity, sorry,
4 was not liquidated.

5 Q. Going down to the balance of GMAC
6 Mortgage and Passive Assets Transactions. Is
7 Passive Asset Transactions, did you call it
8 PATI internally?

9 A. We did.

10 Q. And do you have any personal
11 knowledge about the nature of the balance
12 between PATI and GMAC Mortgage?

13 A. PATI was the owner of notes issued by
14 two special purpose entities that were secured
15 in whole by assets from our international
16 operations. Those notes were as -- as those
17 special purpose vehicles liquidated those
18 assets, proceeds from those asset liquidations
19 would have been distributed to the noteholders,
20 which PATI was, and that would have generated
21 cash within PATI, and as part of the sweeps
22 that would occur, cash would be taken out of
23 entities and swept up to a consolidated sort of
24 treasury cash management function. And the
25 sweep of cash would have resulted from the

1 C. Dondzila

2 creation of intercompany balances.

3 Q. How frequently did the cash sweeps
4 occur?

5 A. I don't know how quickly -- how
6 frequently those happened.

7 Q. Was it on a monthly, daily, weekly
8 basis?

9 MR. LIPPS: Objection. Go ahead.

10 A. You'd have to check with treasury.

11 Q. And by this point in time in 2012,
12 did PATI have any remaining assets, or had all
13 the loans that served as its assets been sold?

14 A. Those were not the only assets within
15 PATI that I recall. So it's possible that
16 there were other assets within the entity.

17 Q. And going down to the next
18 intercompany balance between GMAC Mortgage and
19 Executive Trustee Services. What was the
20 business of Executive Trustee Services?

21 A. To my knowledge, the business
22 activities -- the principal business activities
23 of Executive Trustee Services, which was
24 composed of more than just a single entity, but
25 that group of companies were attempts at

1 C. Dondzila

2 recovery against losses that were incurred for
3 liquidated loans. So attempting to collect
4 from borrowers any amounts that had been lost
5 through other avenues, and also providing
6 trustee services around the foreclosure
7 process, so -- and for that, they received
8 revenue.

9 Q. And is it the case that the revenue
10 was then swept up as part of the process you
11 described earlier in your testimony?

12 A. The revenue of the organization less
13 the expenses that it incurred in connection
14 with its business activities would have been
15 part of the treasury centralized cash
16 management process and would have been swept
17 up.

18 Q. Okay. And similar to PATI, after
19 the -- when the cash was swept up, Executive
20 Trustee Services would receive a receivable in
21 the form of an intercompany notation; correct?

22 A. That is correct.

23 Q. Okay. Now, do you know whether
24 Executive Trustee Services pledged its equity
25 in connection with the junior secured notes?

1 C. Dondzila

2 A. I don't recall.

3 Q. And do you -- similarly, do you know
4 whether PATI was a pledger of its equity under
5 the junior secured notes?

6 A. I don't recall.

7 (Dondzila Exhibit No. 3 was marked for
8 identification.)

9 BY MR. PERRY:

10 Q. Before you is Dondzila Exhibit 3. It
11 appears to be a draft -- well, is this
12 document -- can you identify this document as a
13 draft of the GMAC Mortgage LLC consolidated
14 financial statements for the years ended
15 December 2011 and December 2010?

16 MR. LIPPS: Talking about the
17 attachment to the email?

18 MR. PERRY: The attachment, yes.

19 A. It's not obvious from the review of
20 the attachment that it's a draft, but based on
21 the cover memo, which I assume included the
22 documents that were printed as the attachment,
23 I would assume that that -- these would be
24 drafts, yes.

25 Q. Why were you preparing financial

1 C. Dondzila

2 statements for two years rather than just a
3 single year?

4 A. I don't recall.

5 Q. Was it always the case that the
6 financial statements for GMAC Mortgage LLC
7 contained two years of financial information?

8 A. To my knowledge for the period while
9 I was there and responsible for the issuance,
10 yes, it included two years.

11 Q. Okay. And was it prepared annually,
12 or every two years?

13 A. It was prepared annually.

14 Q. Now, at some point in time, did you
15 begin meeting with representatives of
16 FTI Consulting?

17 A. Yes, in connection with the ResCap
18 bankruptcy.

19 Q. Do you recall roughly when you began
20 meeting with representatives of FTI Consulting
21 in connection with the ResCap bankruptcy?

22 A. I don't recall the exact date.

23 (Dondzila Exhibit No. 4 was marked for
24 identification.)

25 BY MR. PERRY:

1 C. Dondzila

2 Q. Before you is Dondzila Exhibit 4.

3 It's an email bearing the hopelessly complex
4 Bates label RCJSNII10014735, and it's an email
5 from Jeremy Stern to you and others.

6 First question: Is this in or around
7 the time that you first began meeting with FTI?

8 A. I don't recall when our first
9 interactions began.

10 Q. And do you recall FTI being
11 interested and asking you to focus on ResCap
12 intercompany information?

13 A. We -- yes, FTI was interested in
14 intercompany information.

15 Q. Did they explain to you why they were
16 interested in intercompany information?

17 A. As I recall, it was in part in
18 connection with their waterfall analysis, and
19 it was in part in connection with inquiries
20 coming from various interested parties in the
21 bankruptcy.

22 Q. And what did you understand FTI's
23 waterfall analysis to be?

24 A. An analysis of the possible outcome
25 of -- upon disposition of the ResCap assets and

1 C. Dondzila

2 settlement of its liabilities, the disposition
3 of proceeds or net proceeds, I guess, to the
4 various parties with an interest in the
5 bankruptcy.

6 Q. And did they explain to you how the
7 treatment of intercompanies would affect their
8 waterfall analysis?

9 A. For the interactions that I had with
10 them, we ignored the intercompany balances.

11 Q. What do you mean by that?

12 A. The information that I provided with
13 regard to intercompany balances was more in
14 response to inquiries from parties to the
15 bankruptcy. In any documentation information
16 that I sent or interacted with them in terms of
17 the waterfall, the intercompany balances were
18 excluded or separated.

19 Q. Okay. Did you ever ask them why they
20 were separating the intercompany balances from
21 the waterfall analysis they were running?

22 A. I did not, that I recall.

23 Q. Did they ever explain to you why
24 parties to the bankruptcy were interested in
25 the intercompanies?

1 C. Dondzila

2 A. I don't recall a specific
3 conversation about why other parties would be
4 interested.

5 Q. Did you understand at the time you
6 were talking to FTI whether the treatment of
7 the intercompanies as debt versus equity would
8 have an impact on the waterfall analysis?

9 A. Over the course of my interactions
10 over the course of the ResCap bankruptcy --
11 whether it was at this specific time or not, I
12 do not know -- but I was aware of the -- I was
13 aware that there could be different views about
14 the treatment of these balances as either debt
15 or equity. And yes, I was aware that that
16 could have an impact on the financial
17 disposition of the net assets of the company.

18 Q. And did FTI express a view to you at
19 any point in time about whether they viewed the
20 intercompanies as debt or equity?

21 A. Not that I recall.

22 Q. Did you sense that they were
23 resistant to treating the intercompanies as
24 debt?

25 MR. LIPPS: Objection to form.

1 C. Dondzila

2 A. I have no idea.

3 Q. Did you ever express a view to FTI

4 about your views about whether the

5 intercompanies were more properly expressed as

6 debt or equity?

7 A. I view that as a legal decision, and

8 if I did share any view, it would have been

9 that that's up to lawyers to decide.

10 Q. Okay.

11 MR. LIPPS: Yeah, and I don't want

12 you disclosing any conversations you had

13 with lawyers.

14 Q. Putting aside conversations with

15 lawyers, is it fair to say as a -- from a

16 financial perspective, the intercompanies were

17 debt, in your view?

18 MR. LIPPS: Objection to

19 characterization. Go ahead.

20 MR. O'NEILL: Objection.

21 A. The characterization of intercompany

22 balances in accordance with generally accepted

23 accounting principles would have classified

24 certain of them as receivables and payables and

25 certain of them as debt.

1 C. Dondzila

2 Q. And in terms of -- what -- in
3 accordance with generally accepted accounting
4 principles, what intercompany balances are
5 classified as payables and receivables?

6 A. Those would be more likely to be
7 balances driven by activities that were not
8 governed by a legal document, indicating more
9 structure or form to the activity.

10 They would have involved transfers
11 between entities for more ancillary activities,
12 such as an erroneous payment of a -- I don't
13 know, a -- an invoice by one or the other, or a
14 payment of an invoice by one entity that was
15 applicable to both that then needed to be
16 charged over to the other.

17 So receivables and payables were,
18 generally speaking, not interest bearing and
19 would not have been governed by a legal
20 contract document that would be otherwise
21 characterized as debt.

22 Q. And did you form a view, just going
23 back to a prior exhibit that we looked at, that
24 listed -- is it Dondzila 3?

25 A. Okay.

1 C. Dondzila

2 Q. Did you form a view from a finance
3 perspective, not from a legal perspective,
4 whether -- actually --

5 MR. LIPPS: So we're going to
6 Exhibit 2?

7 MR. PERRY: Exhibit 2.

8 MR. LIPPS: First page of the Excel
9 attachment?

10 MR. PERRY: Yes.

11 Q. So did you form a view of, from a
12 finance perspective, which of the balances
13 reflected on this chart were debt and which
14 ones were payables and receivables?

15 MR. LIPPS: Objection, form.

16 A. To look at the financial statements.
17 I don't recall.

18 Q. Okay. So ultimately, if one wanted
19 to determine how Residential Capital LLC was
20 treating these balances from a financial
21 perspective, you'd simply look at the financial
22 statements of each of the entities reflected on
23 the chart on Dondzila 2; correct?

24 MR. LIPPS: Objection, form.

25 A. The conclusions in terms of financial

1 C. Dondzila

2 statement presentation, yes, would be in there
3 to the extent that one or the other was
4 obviously disclosed.

5 MR. PERRY: Do you want to take a
6 break? We have been going for an hour.

7 MR. LIPPS: Sure.

8 THE VIDEOGRAPHER: The time is
9 11:11. We're off the record.

10 (Recess taken.)

11 THE VIDEOGRAPHER: The time is
12 11:19. We're on the record.

13 (Dondzila Exhibit No. 5 was marked for
14 identification.)

15 BY MR. PERRY:

16 Q. Before you, Ms. Dondzila, is Dondzila
17 Deposition Exhibit 5. It's an email from
18 Ms. Westman to you dated March 19, 2012.
19 There's some description at the top of her
20 email to you about an allocation of the GMACM
21 management fee. Do you have an understanding
22 of what Ms. Westman's telling you there?

23 A. Ally Financial allocated costs.
24 Those allocations and charges related to those
25 allocations were recorded initially to RFC,

1 C. Dondzila

2 Residential Funding Company, and then the
3 appropriate portion would then be moved from
4 Residential Funding Company down to GMAC
5 Mortgage.

6 Q. When you say down to GMAC Mortgage,
7 were they sister companies?

8 A. They are sisters, so it would have
9 been over.

10 Q. Across or over; correct?

11 A. Uh-huh, correct.

12 Q. Do you know why Ally didn't just
13 allocate a portion directly to GMACM?

14 A. I don't know.

15 Q. And did the allocation of management
16 fees from Residential Funding to GMACM create
17 an intercompany balance?

18 A. Yes, the -- yes, it would have
19 created an intercompany balance between GMAC
20 Mortgage and Residential Funding Company.

21 Q. And were there other transactions
22 between Residential Funding Company and GMAC
23 Mortgage that led to an -- intercompany
24 balances between the two companies?

25 A. Yes.

1 C. Dondzila

2 Q. And what were those items?

3 A. I'm sure there are many. There was
4 thousands of opportunities for activity. The
5 most significant of which I know of would be
6 the subservicing agreement between GMAC
7 Mortgage with service, subservice loans on
8 behalf of RFC.

9 Q. And as a result of subservicing on
10 behalf of RFC, what was the -- was that -- was
11 compensation for that activity handled through
12 the intercompany accounts?

13 A. Yes, it would have been.

14 Q. And were there actual cash transfers
15 that would go back and forth in consideration
16 for that activity?

17 A. I don't recall.

18 Q. Was the intercompany account between
19 GMAC Mortgage LLC and Residential Funding
20 Company LLC cash-settled from time to time?

21 A. I don't recall.

22 Q. Just look at the schedule of other
23 liabilities in Ms. Westman's email to you. And
24 I'm focused -- does the liability payable to
25 RFC reflect the intercompany balance between

1 C. Dondzila

2 GMAC Mortgage LLC and RFC?

3 A. Given this isn't the final draft of
4 the financial statement, so not knowing if it
5 officially and finally ended up with that being
6 the balance, yes, at whatever point in time
7 this email was drafted, that would represent
8 what we believed to be the balance of the
9 payable to RFC.

10 (Dondzila Exhibit No. 6 was marked for
11 identification.)

12 BY MR. PERRY:

13 Q. Before you is Dondzila Deposition 6.
14 It's an email with a group of attachments. I'm
15 interested in the first attachment, and
16 specifically the second page of the attachment,
17 which describes relationship number 7.

18 MR. LIPPS: It's the page that ends
19 with the Bates number, last three, 113?

20 MR. PERRY: That's correct.

21 MR. LIPPS: Okay.

22 Q. Can you take a moment to review the
23 description of relationship 7?

24 A. I've read it.

25 Q. Is the description provided -- well,

1 C. Dondzila

2 first of all, did you participate in the
3 creation of this document?

4 A. I don't recall.

5 Q. Is the description contained
6 concerning relationship 7 consistent with your
7 understanding of the intercompany relationship
8 between GMAC Mortgage and Residential Funding
9 Company?

10 A. Yes, the three bullets that are
11 called out are consistent with my
12 understanding.

13 Q. Okay. Do you see there's a notation
14 that says the last pre-petition settlement was
15 in May 2012?

16 Do you have any knowledge of a cash
17 settlement in connection with this intercompany
18 in May of 2012?

19 A. I don't recall.

20 Q. And how would a -- would it require
21 your approval for there to be a cash settlement
22 of some or all of an intercompany balance --

23 A. No, it did not require --

24 MR. LIPPS: Let -- did you finish
25 the question?

1 C. Dondzila

2 MR. PERRY: Yeah.

3 Q. You can answer.

4 THE WITNESS: I'm sorry.

5 A. No, it did not require my approval.

6 Q. Okay. And who would be the person or
7 people that would determine whether to
8 cash-settle an intercompany balance?

9 A. I don't recall.

10 Q. Is it people that reported to you,
11 people that you reported to? How did it come
12 to be that balances were cash-settled?

13 MR. LIPPS: Objection to form.

14 That's about two questions. But go
15 ahead.

16 A. I don't know.

17 Q. If you go to relationship number 9,
18 you see there's a description of the
19 relationship between GMAC Mortgage and GMAC
20 Residential Holding Company. Is GMAC
21 Residential Holding Company something that
22 people called Resi --

23 A. No.

24 Q. -- Holdings?

25 MR. LIPPS: Well, that's a

1 C. Dondzila

2 different question.

3 Q. What was GMAC Residential Holding
4 Company called internally?

5 A. In short form, if it was ever
6 referred that way, it would have been Resi
7 Holdings.

8 Q. Resi Holdings? Okay.

9 And just so I understand it, cash
10 flowed from Residential Capital LLC to GMAC
11 Residential Holding Company LLC and then down
12 to GMACM; is that correct?

13 A. That is correct.

14 Q. And do you -- there's a notation here
15 that says the interest rate under this
16 agreement fluctuates monthly and is a stated
17 margin agreed to between the company and RHC,
18 which is generally between 100 and 300 basis
19 points above a quoted short-term market rate.

20 Do you see that text?

21 A. I do.

22 Q. Do you believe that to be accurate?

23 A. I would have to look at the
24 agreement.

25 Q. Okay. Did you -- did your group

1 C. Dondzila

2 participate in the determination of the
3 interest rate to be charged on this particular
4 intercompany balance at any point in time?

5 A. I don't recall.

6 Q. It says interest was accrued on a
7 monthly basis until the petition date. Who
8 would have been in charge of determining the
9 interest accrual on this particular balance?

10 A. A member of my team would have
11 calculated and recorded the accrual.

12 Q. Do you know why some of the
13 intercompany relationships contain written
14 credit facilities while others do not?

15 A. I don't.

16 Q. Was there any policy or procedure in
17 place while you were controller that spoke to
18 when an intercompany relationship had an
19 underlying agreement and when it didn't?

20 A. Until the implementation of the Ally
21 Financial intercompany policy, and only to the
22 extent that that required it, which I don't
23 recall, there was nothing during my term there
24 that required it.

25 Q. Okay. And do you know why some of

1 C. Dondzila

2 the balances accrued interest and others did
3 not?

4 A. I do not.

5 Q. Where were the contracts between the
6 affiliated entities kept at Residential
7 Capital?

8 A. I don't know with certainty who would
9 have had them.

10 Q. Did your group have contracts between
11 the -- between these entities?

12 A. We might.

13 Q. But you don't know one way or
14 another?

15 A. Correct.

16 MR. LIPPS: Objection, asked and
17 answered.

18 (Dondzila Exhibit No. 7 was marked for
19 identification.)

20 BY MR. PERRY:

21 Q. Before you is Dondzila Exhibit 7.
22 It's an email from Barbara Westman to Jeremy
23 Stern. You're copied on the email. It
24 attaches a -- back at the page ending 5117,
25 something called ResCap restated loan

1 C. Dondzila

2 agreement.

3 Were you aware prior to receiving
4 this email that there was a loan agreement
5 between ResCap, Residential Capital LLC, and
6 GMAC Mortgage -- well, strike that.

7 Were you aware prior to receiving
8 this email that there was a loan agreement
9 between Residential Capital Corporation and its
10 wholly owned direct and indirect subsidiaries
11 GMAC Residential Holding Corp., GMAC Mortgage
12 Corp., and Residential Funding Corp.?

13 A. Yes.

14 Q. And what did you -- what was your
15 understanding about the nature of that
16 agreement?

17 A. My understanding of the agreement was
18 what we disclosed in both of the respective
19 GMAC Mortgage financial statements and in the
20 Residential Funding Company financial
21 statements, that there was a -- well, we'd have
22 to look at the financial statements to see
23 exactly how they were described. It would have
24 been in accordance with the disclosures that we
25 made.

1 C. Dondzila

2 Q. And did you understand that loan
3 agreement to be in effect in 2011 and 2010?

4 MR. LIPPS: Let me object to the
5 extent you're asking for some legal
6 conclusion. But go ahead.

7 A. Yes, I was aware the agreement was
8 outstanding during those periods.

9 Q. So your understanding -- I'm not
10 asking for a legal conclusion, I'm just asking
11 for your understanding as a financial
12 professional -- was that there was a loan
13 agreement, it was outstanding in 2010 and 2011.

14 A. That's correct.

15 Q. Okay. And was interest charged on
16 any of the balances in connection with the loan
17 agreement that's before you as Dondzila
18 Exhibit 7?

19 A. I can confirm that it was in
20 connection with a loan with Residential
21 Holdings. I do not recall whether it was on
22 the loan with Residential Holding Corp., or
23 Residential Funding Corp.

24 Q. And who was it who would have been in
25 charge of analyzing and assessing interest with

1 C. Dondzila

2 respect to this particular loan agreement?

3 A. A member of my team.

4 Q. Do you know who?

5 A. Matt McGarvey in the 2011, certainly,
6 period. I don't recall when he joined the
7 company.

8 Q. And would he have kept schedules of
9 the interest charged?

10 A. Yes.

11 Q. And did -- who made -- was there a
12 decision made not to charge interest on other
13 of the balances between Residential Capital LLC
14 and, say, Residential Funding Company LLC?

15 A. I don't recall if interest was
16 charged.

17 Q. Okay. May have been, may not have
18 been, you just don't know?

19 A. Correct.

20 MR. LIPPS: Objection, asked and
21 answered.

22 THE WITNESS: Sorry.

23 Q. And so to the extent that interest
24 was not charged, do you know who would have
25 made that judgment?

1 C. Dondzila

2 A. The accountant responsible for review
3 of the contract and in the context of the
4 entries that were required each period.

5 Q. And how would interest have been
6 recorded to the extent it was charged?

7 A. We would have debited -- well, if
8 it's a receivable, you would debit interest
9 receivable and credit interest income; and if
10 it was a payable, it would credit interest
11 payable and debit interest expense.

12 Q. So if I had an accounting
13 professional that I wanted to direct to check
14 whether interest was either credited or debited
15 between, say, Residential Capital LLC and
16 Residential Fundings LLC, could that
17 professional in fact do that through reviewing
18 the company's books and records?

19 A. Yes, they should be able to.

20 Q. Okay. And do you think -- are there
21 individual entries on the general ledger for
22 the interest charges?

23 A. I don't know that level of
24 granularity.

25 Q. Could it also be the case that

1 C. Dondzila

2 intercompany transactions are recorded net of
3 any interest charge?

4 MR. LIPPS: Objection to form, but
5 go ahead.

6 A. Is your question on the balance sheet
7 or on the income statement?

8 Q. Well, on the balance sheet.

9 A. It is possible that the interest
10 could have been recorded to an intercompany
11 balance that would have been netting against
12 the principal amount of the receivable or
13 payable.

14 Q. Okay. And in that circumstance, how
15 would somebody go back to figure out if and how
16 much interest was charged in that particular
17 period?

18 A. In regards to interest that was
19 charged or earned, the best way to do it would
20 be to go to the income statement.

21 Q. And how would that be recorded on the
22 income statement?

23 A. It would have either been part of a
24 journal entry to interest income or expense, or
25 would have been the journal entry. And if it

1 C. Dondzila

2 was part of a journal entry, there would
3 presumably be documentation that would provide
4 more granular detail of the components of that
5 journal entry.

6 Q. And what would that documentation be?

7 MR. LIPPS: What, the journal
8 entry?

9 MR. PERRY: Yeah.

10 Q. You referenced supporting
11 documentation for a journal entry on the income
12 statement.

13 MR. LIPPS: Oh.

14 A. It could include an Excel
15 spreadsheet, could be a handwritten document
16 saved in a file.

17 Q. Do you know whether Ms. Westman or
18 anybody else ever undertook that particular
19 review in connection with the prebankruptcy
20 process where you're meeting with FTI?

21 A. The efforts that I'm aware of that
22 Barb or others would have been involved in were
23 reviews of the balance sheet, not the income
24 statement.

25 Q. And do you know if anybody from FTI

1 C. Dondzila

2 ever asked Barb or others to review the income
3 statement in connection --

4 A. I'm not aware.

5 Q. Okay. In terms of identifying the
6 loan agreement that's before you on Dondzila 7,
7 do you know what efforts were undertaken to
8 find the agreement?

9 MR. LIPPS: I'm not sure I
10 understand -- objection. I'm not sure I
11 understand that question, but go ahead
12 if you do.

13 A. Since I didn't provide it, I don't
14 know what efforts went into procuring it.

15 Q. And nobody told you what efforts went
16 into procuring the contract for Mr. Stern;
17 right?

18 A. Not specifically.

19 Q. Now, did there come a time when you
20 began evaluating whether to impair the
21 intercompany between Residential Capital LLC
22 and Residential Funding Company LLC?

23 A. In accordance with the issuance of
24 separate company financial statements, we would
25 have an obligation to evaluate all of the

1 C. Dondzila

2 assets of those entities for valuation or
3 potential impairment under GAAP.

4 Q. And that would include intercompany
5 payables or receivables; correct?

6 A. That is correct.

7 Q. And so just to summarize, if, in
8 fact, you determined that Residential Capital
9 LLC was not able to pay back the intercompany
10 payable to Residential Funding Company LLC,
11 Residential Funding Company LLC would then need
12 to take an impairment on its books and records;
13 correct?

14 MR. LIPPS: Objection.

15 MR. O'NEILL: Mischaracterizes the
16 testimony.

17 A. In the event that based on
18 qualitative and quantitative assessment,
19 there's an impairment of an asset, there would
20 be, in fact, a charge to the income statement
21 of the entity on whose books that asset sat.

22 Okay. Before you is Westman
23 Deposition Exhibit 31. It's a series of
24 emails. Directing your attention to the second
25 page of the exhibit, there's an email from you

1 C. Dondzila

2 to Mary Riskey and Janel Farley. Second page.

3 MR. LIPPS: Well, she's still
4 looking through the exhibit.

5 THE WITNESS: Oh, the second
6 exhibit.

7 MR. LIPPS: Second page.

8 MR. PERRY: Second page of the
9 email.

10 MR. LIPPS: The one that has cc to
11 Brandy Frank?

12 MR. PERRY: That's correct.

13 Q. So is it the case that at least as of
14 April of 2011, your view was from a financial
15 perspective, there was a reasonable expectation
16 that Residential Funding Company LLC -- strike
17 that. Strike that.

18 In April of 2011, is it accurate
19 that, in your view, there was a reasonable
20 expectation that Residential Capital LLC would
21 have the capability of meeting its intercompany
22 obligations to Residential Funding Company LLC?

23 A. This document doesn't make clear what
24 I thought at that point in time related to
25 ResCap to -- any payable that ResCap had to

1 C. Dondzila

2 RFC.

3 Q. Okay. So why don't you go to the
4 second attachment, which is an email from
5 Ms. Farley to Ms. Riskey, copying you.

6 MS. BARRAGE: The Bates number?

7 MR. PERRY: It ends 15262.

8 Q. First of all, who's Kim Walsh?

9 A. Kim Walsh had several roles within
10 the company, and I don't -- so at one point in
11 time, she was the chief accounting officer for
12 Ally Bank. She left and then came back at some
13 point, and the dates, I don't know, but at some
14 point, she came back and was a member of the
15 accounting policy team working for Ally
16 Financial.

17 Q. Okay. Looking at the second page,
18 ending 15263, based on the time frame that this
19 was sent, are you able to -- and Ms. Walsh's
20 email signature, are you able to deduce whether
21 she was a chief accounting officer or member of
22 the accounting policy group at the time she
23 sent this email?

24 A. At this point, she was part of the
25 accounting policy group.

1 C. Dondzila

2 Q. And do you recall Ms. Walsh ever
3 taking the view that the receivable between
4 ResCap, Residential Capital LLC and Residential
5 Funding Company LLC ought to be written down?

6 A. Not that I recall.

7 Q. And who's Janel Farley?

8 A. Janel Farley was a member of my team
9 who assisted us with accounting policy
10 questions.

11 Q. And who's Mary Riskey?

12 A. Mary Riskey was a director
13 responsible for certain aspects of the
14 accounting for ResCap.

15 Q. Okay. And if you go one paragraph
16 down in Ms. Farley's email, she writes, "Based
17 on Cathy's response earlier, I would recommend
18 we respond to Kim, indicating that we have a
19 reasonable expectation that ResCap will have
20 the capability to meet its obligations. Since
21 the receivable is not considered impaired, no
22 entry was required. Do you agree?"

23 Do you have any recollection of what
24 Ms. Farley's referring to there in that
25 paragraph?

1 C. Dondzila

2 A. I don't recall.

3 Q. Do you recall Ms. Farley or anybody
4 else from your group doing an assessment of
5 whether the Residential Capital LLC,
6 Residential Funding Company LLC needed to be
7 impaired in 2011?

8 A. As I'd indicated earlier, we would
9 have, in connection with the issuance of the
10 separate company financial statements, needed
11 to undertake an evaluation as to whether there
12 were any impairments to any of the assets
13 required.

14 Q. And do you recall any impairment
15 taken with respect to the intercompany between
16 Residential Capital LLC and Residential Funding
17 Company LLC in 2011?

18 A. I do not.

19 Q. Do you have any knowledge -- well, do
20 you believe -- well, strike that.

21 (Dondzila Exhibit No. 8 was marked for
22 identification.)

23 BY MR. PERRY:

24 Q. Before you is Dondzila Exhibit 8.
25 It's an email from you to Ms. Westman and it

1 C. Dondzila

2 attaches a memorandum from Ms. Westman to the
3 files. Can you take a moment to review the
4 email and the attached document?

5 A. I've reviewed it.

6 Q. Okay. Do you recall the
7 circumstances that led Ms. Westman to prepare
8 this memo to file?

9 A. This would have been prepared in
10 connection with the issuance -- the preparation
11 and issuance of the annual financial statements
12 for Residential Funding Company.

13 Q. And the -- this would have been the
14 2010/2011 annual financial statements of
15 Residential Funding Company; correct?

16 A. That is correct.

17 Q. Okay. And do you recall -- D&T I
18 take it is a reference -- in the email is a
19 reference to Deloitte & Touche?

20 A. That would be correct.

21 Q. And Deloitte & Touche was the
22 independent auditor for Residential Funding
23 Company LLC in 2010 and '11; correct?

24 A. They definitely were in 2011. We did
25 switch auditors from PriceWaterhouse to

1 C. Dondzila

2 Deloitte & Touche at some point. I don't
3 recall if that was 2009 or 2010.

4 Q. Okay. But at least by the time that
5 you had written your email to Ms. Westman,
6 Deloitte & Touche was the independent auditor;
7 correct?

8 A. That's correct, for the 2011
9 financial statement, they were absolutely the
10 auditor.

11 Q. And do you recall Deloitte & Touche
12 raising concerns that the receivable from
13 the -- the RFC receivable from ResCap ought to
14 be impaired?

15 A. They -- we did not take an
16 impairment, and they issued an unqualified
17 opinion with an emphasis paragraph in
18 connection with those financial statements, so
19 no, they did not have an issue with the
20 decision to not impair.

21 Q. Okay. But is it fair to say that you
22 engaged in dialogue with them about the
23 decision not to impair in March of 2012?

24 A. In connection with the audit, we
25 dialogued with the auditors in regards to every

1 C. Dondzila

2 significant matter, and this was one.

3 Q. And do you recall a meeting, an
4 in-person meeting with somebody from Deloitte &
5 Touche on this particular issue?

6 A. I don't recall a meeting specific to
7 this.

8 Q. Do you recall a telephone call,
9 discussions with Deloitte & Touche on this
10 particular issue?

11 A. During the course of the year, and
12 particularly during reporting cycles, I had
13 weekly calls with Deloitte.

14 Q. And I'm just focused on whether you
15 have a specific recollection as you sit here
16 today of the content of a call or a meeting
17 with Deloitte & Touche on this particular
18 issue.

19 A. I do not.

20 Q. Okay. Turning to the conclusion
21 paragraphs on page 2 of the memorandum, is it
22 accurate that at least in March of 2012,
23 management had concluded that ResCap maintained
24 the ability to support its intercompany
25 obligations with RFC, and therefore, no

1 C. Dondzila

2 impairment of this receivable was warranted for
3 the RFC standalone financial statements? Is
4 that accurate?

5 A. It is accurate.

6 Q. And the preceding paragraph contains
7 some analysis. Is that an accurate statement
8 of the reason that management of ResCap Funding
9 LLC believed no impairment was warranted in
10 March of 2012?

11 MR. LIPPS: Objection to form.

12 MR. O'NEILL: Are you talking about
13 the entirety of the preceding part?

14 MR. PERRY: I am.

15 A. Now I've forgotten the question. I'm
16 sorry.

17 Q. Okay. The preceding paragraph, which
18 begins with the text "ResCap has 2.6 billion in
19 equity," and continues on, was that -- that
20 paragraph the basis, the analytical basis for
21 your conclusion that no receivable was
22 warranted?

23 MR. LIPPS: No receivable? You
24 mean no impairment.

25 MR. PERRY: No impairment was

1 C. Dondzila

2 warranted. Thanks.

3 A. Taking as fact the 2.6 billion, yes,
4 that would be the support for that conclusion.

5 Q. Okay. Were there any other factors,
6 including factors that may not be expressed in
7 this paragraph, that played into your
8 conclusion that no impairment of the receivable
9 was warranted?

10 A. As documented on the preceding page
11 ending 065, under "Analysis," there are
12 reference to other matters that would have been
13 considered, including but not limited to the
14 fact that the receivable was not tied to any
15 specific collateral cash flows, etc. So yes,
16 there were other factors that were considered.

17 Q. Okay. And those -- all of the
18 factors that you considered are reflected in
19 this memorandum that's before you as Dondzila
20 Exhibit 8; correct?

21 A. To my knowledge, this would be the
22 considerations, yes.

23 Q. Okay. There's some discussion in the
24 last paragraph of the first page of the memo,
25 and it reads: "Intercompany balance repayments"

1 C. Dondzila

2 under the receivable are not tied directly to
3 any specific collateral cash flows. The
4 company does have a practice of impairing
5 receivables in situations where repayment is
6 tied directly to specific cash flows."

7 And then there's a reference to the
8 PATI notes. Can you explain what this
9 paragraph means?

10 A. PATI held notes issued by special
11 purpose entities that were collateralized by
12 assets that came from our international
13 operations. And as the value of those assets
14 were declining and/or as those assets were
15 sold, we performed an assessment of the
16 availability of future cash flows, and to the
17 extent we determined that there were
18 insufficient cash flows likely to manifest
19 themselves, we impaired the notes that were
20 held by PATI.

21 Q. I see. The -- who was the Deloitte &
22 Touche auditor or auditors that you interacted
23 with on the 2010 and 2011 Residential Funding
24 Company LLC audit?

25 A. The partner, the signing partner for

1 C. Dondzila

2 ResCap and its subsidiaries was Tom Robinson.
3 And there were two other senior members of his
4 team. I don't recall their positions at the
5 time. Brad Stevenson and Dave -- his last name
6 is escaping me.

7 Q. Now, when you were meeting with FTI
8 in connection with their consideration of the
9 intercompany receivables, did you reference or
10 discuss with them the conclusions that you had
11 arrived at in Dondzila Exhibit -- the memo in
12 Dondzila Exhibit 8?

13 A. I don't recall having a specific
14 conversation with them about that.

15 Q. Do you know whether FTI was provided
16 with a copy of the memorandum set forth on
17 Dondzila Exhibit 8?

18 A. I don't.

19 Q. I take it you would have no reason
20 not to provide it to them if they asked.

21 Right?

22 MR. LIPPS: Objection to form, but
23 go ahead.

24 A. We provided thousands of documents
25 that were requested, so no, we wouldn't have

1 C. Dondzila

2 had any reason to withhold it.

3 Q. Do you recall them ever asking for

4 any impairment analysis that you or your staff

5 had done on the various intercompany

6 receivables?

7 A. No, I don't recall that.

8 Q. Before you is Westman Deposition

9 Exhibit 28. Do you know -- just directing your

10 attention to the first --

11 MR. LIPPS: Did you say 28?

12 MR. PERRY: What number is it?

13 MR. LIPPS: 7 on mine.

14 MR. PERRY: Okay. Thank you.

15 Q. Before you is Westman Deposition

16 Exhibit 7. Directing your attention to the

17 second email in the group, you're not copied on

18 it, my question is: Do you understand what the

19 issue here being discussed is?

20 MR. LIPPS: This is the one from

21 Janel Farley to Barbara Westman?

22 MR. PERRY: Yes.

23 A. I don't know exactly what the context

24 was for the request.

25 Q. Do you have any knowledge of the

1 C. Dondzila

2 topside entry for GMACM to include RFC advances
3 made in or around March of 2012?

4 A. In or around that time, we were
5 working on ensuring that the separate legal
6 entity accounting for the GSAP entity, which is
7 GMAC Mortgage Advance Service, or Advance -- I
8 forget the name of the entity, but it was a
9 servicer advance facility, which is a special
10 purpose entity but was required to be
11 consolidated under GAAP because we had a
12 controlling interest in the entity. And we
13 were making some adjustments to the actual
14 individual legal entity recordation to comply
15 with a requirement from our parent, Ally
16 Financial, that each entity's individual
17 standalone financial statements were prepared
18 appropriately.

19 Q. When you say prepared appropriately,
20 do you mean prepared in accordance with GAAP or
21 was there some other standard that Ally
22 required?

23 A. The standard was that they were in
24 the general ledger uniquely and identifiably
25 and in accordance with GAAP.

1 C. Dondzila

2 Q. Did Ally have any -- from the
3 purposes of -- from the perspective of Ally the
4 lender, did they have any requirements with
5 respect to the intercompany transactions
6 between the ResCap entities that we have been
7 talking about today?

8 MR. O'NEILL: Objection.

9 A. Not that I'm aware of.

10 Q. What is the reference to STM1388?

11 A. STM means significant transaction
12 memorandum. 1388 would be the numerical
13 reference that was assigned when that
14 significant transaction was entered into the
15 log, the transaction log.

16 Q. So can you describe to me what the
17 significant transaction memorandum is?

18 MR. LIPPS: Generally what they
19 are?

20 MR. PERRY: Yeah.

21 A. Okay. Generally, Residential Capital
22 had a program related to change management, and
23 the administration of that change management
24 was through the identification of significant
25 change matters. And those significant change

1 C. Dondzila

2 matters that were identified would be logged
3 into the change management process and would be
4 assigned a number and a significant transaction
5 memorandum would be completed.

6 Based upon the significance of the
7 matter, it could be an abbreviated form or it
8 could be the full form, just depended on what
9 the assessment of the amount of change and the
10 significance of the change was.

11 That document required notification
12 to a variety of different people, including the
13 tax department, the financial reporting team,
14 and had to be signed off by various people,
15 including the business owner of the change up
16 to and including the accounting policy
17 representative.

18 Q. Were significant transaction
19 memorandums prepared from time to time with
20 respect to intercompany transactions?

21 A. It's possible.

22 Q. Do you -- there were times where
23 significant intercompany balances were written
24 off in 2008 and 2009. Are you aware of that
25 fact?

1 C. Dondzila

2 A. Are you referring to debt

3 forgiveness?

4 Q. Debt forgiveness, yes.

5 A. Yes, I'm aware that debt forgiveness

6 was executed during that time period.

7 Q. Okay. Do you know whether
8 significant transaction memorandum -- memoranda
9 were prepared in connection with that debt
10 forgiveness?

11 A. I can't say for certain that it was
12 in all cases, but yes, those would be
13 transactions that would meet the threshold of
14 being included in the process.

15 Q. And do you know whether Ms. Westman
16 or you reviewed the significant transaction
17 memoranda in connection with the review of the
18 intercompany accounts that were conducted at
19 FTI's direction in early 2013?

20 A. I'm sorry, I need you to repeat the
21 question.

22 Q. Did anybody look at the significant
23 transaction memoranda in connection with the
24 intercompany review in early 2013?

25 A. I don't know that we pulled any

1 C. Dondzila

2 significant transaction memos directly in
3 response to requests for the intercompany
4 review.

5 Q. Okay.

6 (Dondzila Exhibit No. 9 was marked for
7 identification.)

8 BY MR. PERRY:

9 Q. Before you, Ms. Dondzila, is Dondzila
10 Exhibit 9. Can you take a moment to review and
11 familiarize yourself with the document?

12 A. Okay.

13 Q. Am I correct that you wrote the text
14 in the first page and a half of the document
15 and then interlineated some response to
16 Mr. Renzi's email to you that starts halfway
17 down the second page?

18 A. Yes.

19 Q. Now, at the bottom of the second
20 paragraph, you talk about you take a walk down
21 Memory Lane and you note that in the beginning,
22 ResCap takes on some debt and distributes cash
23 down through the entity, which is then used.

24 Then you note this would have created
25 a receivable on the books of the ResCap holding

1 C. Dondzila

2 company and a payable on the operating company
3 books. These were likely interest-bearing
4 agreements. Do you see that?

5 A. I do.

6 Q. What was the basis for your
7 conclusion that these initial distributions
8 were likely interest-bearing agreements?

9 MR. LIPPS: Objection to form. Go
10 ahead.

11 A. The previous agreement that you had
12 shown me.

13 Q. I see. Okay. You see the fourth
14 paragraph down, the first sentence, "The
15 company also uses a daily sweep process to
16 consolidate all of its available liquidity at
17 the parent."

18 Is that a reference to the cash sweep
19 process that you testified about earlier?

20 A. That would be a reference to the
21 centralized cash management, yes.

22 Q. Okay. And does this refresh your
23 recollection that the centralized cash
24 management sweeps were performed on a daily
25 basis?

1 C. Dondzila

2 A. It doesn't refresh my recollection,
3 but it's obviously a statement that I've made.

4 Q. Moving to the next paragraph on the
5 second page, top paragraph, you write -- you're
6 talking about debt forgiveness.

7 You write: "In most cases but not
8 all the forgiveness has been treated as equity.
9 In limited cases where the forgiveness occurred
10 with respect to collateralized borrowing, it
11 may have been treated as income expense." Do
12 you see that?

13 A. I do.

14 Q. And the limited cases that you're
15 referring to, is that the testimony you gave
16 earlier, I believe, about the PATI transaction
17 and the notes in PATI? Is that the reference
18 here?

19 A. That is correct.

20 Q. Okay. And in those circumstances,
21 what was the -- what was the intercompany
22 balance that was being forgiven? What were the
23 two entities where it was being forgiven?

24 MR. LIPPS: You're talking about
25 the PATI?

1 C. Dondzila

2 MR. PERRY: In the PATI

3 transaction.

4 A. The special purpose entity -- well,
5 so the -- so I'm forgetting the name of the
6 international entity that originally held the
7 assets, but we would have had an entity that
8 would have owned these international mortgage
9 loans.

10 That entity would have sold those
11 assets through a transferor entity that was
12 part of our consolidated group, onto the
13 special purpose entities Flume and Viaduct.

14 Under GAAP, we failed sale for the
15 first sale from the originator entity to the
16 transferor and also from the transferor to the
17 special purpose entity. But we also were the
18 primary beneficiary of the special purpose
19 entity; therefore, we consolidated the Flume
20 and Viaduct special purpose entities into our
21 financial statements. So those, by all
22 appearances, would look to be subsidiaries of
23 Residential Funding Corporation.

24 And so at a consolidated level, it
25 would have appeared to be between Residential

1 C. Dondzila

2 Funding Company and GMAC Mortgage. In fact, it
3 was going to be between PATI, Passive Asset
4 Trust, and the Flume and Viaduct special
5 purpose entities that were over in the RFC
6 consolidated group.

7 Q. And so when you're assembling
8 intercompany balances, the top, you know, seven
9 or nine or 15, whatever the number is for FTI,
10 does it include any of the PATI-related
11 balances that you were just talking about?

12 A. I believe the PATI -- the notes
13 related to Flume and Viaduct that PATI held
14 were extinguished by that time.

15 Q. Okay.

16 A. Or were so immaterial that they did
17 not meet the threshold for the -- the dollar
18 threshold for the top intercompanies.

19 Q. Now, with respect to the top
20 intercompanies that were the focus of your
21 analysis in 2013, in circumstances where there
22 was forgiveness of debt, was it always for
23 purposes of those intercompanies treated as
24 equity?

25 A. There may have been some other

1 C. Dondzila

2 situations in regards to legal entity
3 minimization where we might have had smaller
4 situations of forgiveness between siblings as
5 opposed to parents and child, that would have
6 been accounted for similar to how PATI was
7 held.

8 So I can't say with certainty that
9 all of them were, but that was more -- the
10 equity was the more likely form of debt
11 forgiveness than the income statement
12 treatment.

13 Q. Just so I've got it right, was there
14 any accounting policy that required you to
15 treat the debt forgiveness as equity?

16 A. I can't quote chapter and verse of
17 the actual standards, but as I recall, the GAAP
18 requirements would presume that debt
19 forgiveness between a parent and a child, or a
20 child and a parent, would be in the form of
21 equity, as opposed to debt forgiveness between
22 two sibling entities would be treated through
23 the income statement.

24 Q. So if for whatever -- well, let me
25 ask you this: Was debt forgiveness done as

1 C. Dondzila

2 equity because that was the way the accounting
3 rules required you to execute the debt
4 forgiveness?

5 A. Any debt forgiveness would have been
6 recorded in the financial statements in
7 accordance with GAAP. That might not be the
8 reason why we did the debt forgiveness, but we
9 would record any debt forgiveness in accordance
10 with GAAP.

11 Q. That's my question. In other words,
12 there was no effort to treat it as equity
13 rather than debt, for example, to avoid
14 cancellation of indebtedness income being
15 attributed to one of the entities; right?

16 MR. LIPPS: Objection to form.

17 A. I'm not aware of any preference or
18 attempt to structure anything for that purpose.

19 Q. Okay. So from your perspective, it
20 was purely the fact that GAAP required the
21 forgiveness of indebtedness to be structured as
22 an equity transaction when you were talking
23 about forgiveness between a parent and
24 subsidiary relationship; correct?

25 MR. LIPPS: Objection. Objection

1 C. Dondzila

2 to form.

3 A. We would have reviewed every
4 transaction against the standards under GAAP,
5 and so we would have followed whatever the
6 final conclusion suggested.

7 Q. Okay. Do you know whether the
8 standard in question is paragraph 27 to 28 of
9 the AICPA Practice Alert? Is that something
10 that sounds familiar?

11 A. I don't recall.

12 MR. O'NEILL: Object to form.

13 THE WITNESS: Sorry.

14 MR. O'NEILL: Go ahead.

15 A. I don't recall the exact standard
16 references.

17 Q. I'll try to dig something out at
18 lunch and maybe we can walk through it. Okay.
19 Go to -- now focusing on Mr. Renzi's email, I'm
20 looking at 1A. And am I correct that Mr. Renzi
21 asks the question: "Explain intent for each
22 balance, loan, or equity." And you
23 interlineate the response -- and the second
24 question: "Was there an expectation of
25 repayment?" And you interlineate the response,

1 C. Dondzila

2 "This is not a question accounting can answer.
3 To the extent we have deemed a collateralized
4 affiliate balance impaired, we've impaired it
5 through earnings. Otherwise, we have concluded
6 for GAAP financial statement purposes that the
7 balances were expected to be repaid."

8 MR. LIPPS: You want to know if
9 that portion that you just read,
10 beginning with "This is not a question,"
11 if that's her interlineation?

12 MR. PERRY: Yes.

13 Q. If that's your text.

14 A. It's not clear, but it seems like a
15 reasonable conclusion, yes.

16 Q. Looking at 1C, there's a series of
17 questions, and then my question is, does it
18 appear that you provide the textual response,
19 "Yes, the company expects to continue to follow
20 its cash management practices post-petition"?

21 A. Yes, that's reasonable.

22 Q. Okay. And to your knowledge, did
23 ResCap's cash management practices change in
24 any respect post-petition?

25 A. No, I believe under the -- whatever

1 C. Dondzila

2 those motion things -- first day motions are
3 called, or whenever they filed it, I believe it
4 continued the practice, the same practices.

5 Q. Okay. So there never -- at least in
6 your -- by your recollection, there never came
7 a time where anybody said to you, you know, we
8 have been doing things incorrectly
9 pre-petition, we've got to change how we do it
10 post-petition? That never happened; right?

11 MR. LIPPS: Objection to form. But
12 go ahead.

13 A. I don't recall that ever coming up.

14 Q. Anybody ever from FTI criticize the
15 way you had done things pre-petition in terms
16 of cash management practices?

17 A. I don't recall them talking to me
18 about that.

19 Q. Okay. The next question is, "Were
20 the funds used for capital improvements or
21 operating expenses?" Is that your text where
22 you say, "Yes, among other things, including
23 running its servicing business activities and
24 funding the purchase of new assets"?

25 A. That's a reasonable assumption, yes.

1 C. Dondzila

2 Q. Okay. And do you consider running
3 the servicing activities and funding the
4 purchase of new assets to be capital
5 improvements or operating expenses?

6 A. I believe them to be neither.

7 Q. How would you characterize running
8 servicing business activities and funding the
9 purchase of new assets?

10 A. It's core business activities.

11 Q. Core business? Okay.

12 And so it's fair to say that the
13 intercompany transfers were used to fund core
14 business activities; correct?

15 MR. LIPPS: Objection to form.

16 MR. O'NEILL: Object.

17 A. It is fair to say that, among other
18 things, cash that was required by the operating
19 companies was used for its core business
20 activities, yes.

21 Q. Are you aware of the operating
22 companies using cash for capital improvements
23 at any point in time while you were controller?

24 A. As the owner of two physical real
25 properties, meaning ResCap, I would expect that

1 C. Dondzila

2 there would have been capital improvements,
3 yes, that were done during the period that I
4 was there.

5 Q. Okay. And what were the physical
6 real properties?

7 A. There's the data center in Eden
8 Prairie, Minnesota, and the call center,
9 servicing center in Waterloo, Iowa.

10 Q. And other than fixing up the data
11 center and the call center, are there any other
12 capital improvement funds -- are there any
13 other funds that you can think of that would
14 have been used for capital improvements during
15 the time that you were the controller?

16 A. I'm sure there were.

17 Q. And would those capital improvements
18 be reflected as such in the financial
19 statements of the varying operating companies?

20 A. We did maintain a fixed asset
21 register that was specific to the entities that
22 had possession of those fixed assets, and it
23 would have included leasehold improvements,
24 real property, other improvements to real
25 property, etc. Would have included the

1 C. Dondzila

2 acquisition of other ancillary fixed assets,
3 desks, desktops, all hard assets would have
4 been included on that register.

5 Q. And do you have any sense of the size
6 of the capital improvements that would have
7 been undertaken during your time as controller?

8 A. I would characterize it as not
9 material.

10 Q. Okay. If you go down to F, it says,
11 "Have principal payments been made? If so,
12 when, how, how often, and how much?"

13 And my first question is, do you
14 believe your response starts with the text "My
15 guess is that certain of these balances," and
16 goes on? Do you believe that to be your
17 response to Mr. Renzi's questions?

18 A. Yes.

19 Q. Okay. And you phrase it here as a
20 guess and you ask -- at least you state, you'll
21 see if Barb can have someone evaluate. Do you
22 know whether anybody ever did the evaluation of
23 whether there were regular principal repayments
24 and draws?

25 A. I don't recall.

1 C. Dondzila

2 Q. And by principal repayments and
3 draws, what you mean is essentially accessing
4 and distributing up on the line of credit that
5 we talked about earlier in your testimony? Is
6 that what you're referring to here?

7 MR. LIPPS: Objection to form.

8 MR. O'NEILL: Objection.

9 A. Yes, that would be a reasonable
10 reference, yes.

11 Q. Okay. Go to number 4. I'm
12 interested in the text that says, "On a monthly
13 basis, the outstanding balances on the
14 revolving and LOC are recorded to the operating
15 companies in proportion to their pledged
16 collateral. As such, each month there will be
17 changes in the balance of the interchange
18 generated." Do you see that text?

19 A. I do.

20 Q. Can you explain what you mean there?

21 A. The revolver and a line of credit are
22 liquidity facilities that were outstanding
23 between Ally Financial and Residential Capital
24 and named borrowers.

25 The outstanding balance -- both --

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2 there are a variety of different -- and there
3 are named borrowers, specifically named
4 borrowers, of which two are Residential Funding
5 Company and GMAC Mortgage. There are others, I
6 believe. And each of those entities have
7 assets that are pledged as collateral to one or
8 both of those agreements. That collateral sits
9 within those individual borrower entities.

10 We concluded that the line of credit
11 and the revolver should both be represented on
12 the financial statements of each of the
13 borrower -- actual borrower entities as opposed
14 to having the revolver and line of credit at
15 the Residential Capital holding company level.

16 And as such, because the documents, the
17 governing documents were not specific about how
18 those borrowings were split between the
19 borrower entities, they were only specific in
20 terms of the collateral that was pledged by
21 each of those entities, we used our judgment.

22 And our judgment was such that we on a monthly
23 basis would evaluate the collateral value that
24 was pledged to both of those by each of the
25 borrower entities, and would allocate the

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2 outstanding borrowings to each based on the
3 proportion of collateral that they had pledged.

4 Q. Okay. So let me just make sure I
5 understand that. I'm going to try and work
6 with a hypothetical just to use easy numbers,
7 and you tell me if it's confusing or I get it
8 wrong.

9 Assume there was a \$2 million
10 facility, the Ally facility was \$2 million, and
11 in month one, ResCap Funding Company LLC had
12 pledged half the collateral and GMAC Mortgage
13 LLC had pledged half the collateral. Is it the
14 case that --

15 MR. LIPPS: Talking about the
16 collateral value pledged?

17 MR. PERRY: The collateral value
18 pledged.

19 Q. Is it the case that each of those
20 entities would then have a million dollar loan
21 on its books from Ally? Is that how it would
22 be accounted for?

23 A. We would have recorded a payable,
24 yes, on the books of each of the respective
25 entities for a million dollars in that example.

1 C. Dondzila

2 Q. Okay. And then in month two, the
3 collateral value changed such that Residential
4 Funding Company LLC had all of the collateral
5 and GMAC Mortgage LLC had none of the
6 collateral.

7 MR. LIPPS: Talking about
8 collateral value?

9 MR. PERRY: Collateral value.

10 Q. So disappears on the GMAC side and
11 increases by a million dollars on the
12 Residential Funding side. How would that
13 change on a month-to-month basis be recorded on
14 the books of the company?

15 A. We would have increased the payable
16 or the liability to Ally on the books of
17 Residential Funding Company from 1 million to
18 2 million, so the outstanding liability at that
19 point in time would be 2 million. And the GMAC
20 Mortgage financial statements would have shown
21 a reduction of their payable such that their
22 outstanding balance was zero.

23 In order for those entries to
24 balance, because we have to make entries
25 balance, there would have been an offset

1 C. Dondzila

2 through intercompany accounts which I
3 suspect -- I cannot confirm, but I suspect
4 would have been not with each other but
5 actually up through ResCap and back down
6 through ResCap --

7 Q. Okay.

8 A. -- as if -- as if the money from Ally
9 Financial had actually sort of moved its way
10 through the food chain, if you will.

11 Q. Right. And by the food chain, if
12 we're talking about GMAC Mortgage, it would go
13 up to GMAC Residential Holding Company, up to
14 Residential Capital LLC and then down to
15 Residential Funding Company LLC?

16 A. No, it actually would have gone the
17 other way. So by increasing the liability on
18 the books of Residential Funding Company, there
19 could have been a de facto sort of assumption
20 that cash would have been raised by them, and
21 so the cash would have -- it wasn't truly cash,
22 but it would have said that then \$1 million in
23 your example, an additional \$1 million would
24 have moved from Residential Funding Company up
25 to ResCap, and then ResCap would have moved it

1 C. Dondzila

2 down into GMAC Mortgage so that GMAC Mortgage
3 could actually repay in a virtual sense its
4 liability that had been on its books.

5 Q. Okay. I understand that.

6 And was this calculation done on a
7 monthly basis?

8 A. It was.

9 Q. And was there a schedule that was
10 prepared that reflected the changes in
11 collateral valuation for this particular
12 purpose?

13 A. I don't have direct knowledge of it
14 but I would expect that there would be a
15 schedule that would support the journal entry
16 that would be posted to the financial
17 statements.

18 Q. And do you know whether that was a
19 standalone journal entry or done as a part of a
20 group of intercompany journal entries?

21 A. I don't know.

22 Q. If you go to 7, there's a question,
23 "Was the ResCap restated loan agreement dated
24 as of January 1, 2006 amended or extended
25 beyond its termination date"?

1 C. Dondzila

2 Do you recall ever learning the
3 answer to that question?

4 A. I don't recall.

5 Q. Okay. But at least from your
6 perspective, by 2011, beginning of 2012, the
7 ResCap restated loan agreement was in effect
8 insofar as at least interest was being charged
9 on that agreement?

10 MR. LIPPS: Well, objection to
11 form. And I know you're not asking her
12 for a legal conclusion.

13 MR. PERRY: Yeah, not --

14 Q. From your perspective as the
15 controller of the company.

16 A. So assuming that the ResCap restated
17 loan agreement is the form of the agreement
18 that governed the relationship between GMAC
19 Mortgage and Resi Holdings and Resi Holdings
20 and ResCap, I think I've stated that, yes, I
21 believe that that was still in existence and
22 that interest was being charged. I do not know
23 if correspondingly interest was being charged
24 on the piece that was between Residential
25 Capital and Residential Funding Company.

1 C. Dondzila

2 Q. Okay. Go to the next page, the text
3 under A. Does this -- does your response to
4 Mr. Renzi's question begin with the text "This
5 results from the cash management activities,"
6 and goes on?

7 A. I believe so, yes.

8 Q. There's a reference to Project Rodeo
9 in Mr. Renzi's email. Do you have an
10 understanding of what that is?

11 A. I believe Project Rodeo is what Ally
12 Financial called their view of the ResCap
13 bankruptcy.

14 Q. So Ally had named the ResCap
15 bankruptcy Project Rodeo?

16 A. That's what I believe.

17 Q. And at least as it relates to the
18 ETS, intercompany balance between ETS and GMAC,
19 there was actual cash that was being generated
20 by ETS's business?

21 MR. LIPPS: Objection, asked and
22 answered. Go ahead.

23 A. Yes, that's correct.

24 Q. And that the cash was swept up as
25 part of the cash management process; right?

1 C. Dondzila

2 MR. LIPPS: Objection, asked and

3 answered. Go ahead.

4 A. Yes, that's my understanding.

5 Q. And you make a note here that the
6 intercompany is awfully close to the retained
7 earnings. Why is that significant to you?

8 A. That was more to provide some context
9 around the linkage between the cash management,
10 which would have been revenues received less
11 operating expenses paid, and that is a
12 reasonable proxy for retained earnings.

13 Q. Okay. And I take it if the -- well,
14 strike that. The retained earnings of which
15 entity?

16 A. I'm sorry, ETS.

17 Q. Okay. And if at some point in time
18 ETS determined that the intercompany receivable
19 from GMACM was impaired or GMACM was not
20 capable of paying it, would it have to adjust
21 the retained earnings figure?

22 MR. LIPPS: Well, objection. I'm

23 not sure that's what -- proper
24 foundation, but go ahead.

25 A. Not seeing the form of whatever

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2 transaction that might be, if it was impaired,
3 it would in all likelihood under GAAP be deemed
4 to be an equity -- it would have been deemed to
5 be a component of equity, which would have been
6 recorded as a dividend, so it would have been
7 recorded as a dividend from ETS to its parents,
8 GMAC Mortgage.

9 Q. After the -- giving effect of the
10 dividend, would the retained earnings figure
11 need to change?

12 A. No, retained earnings would stay the
13 same but equity would decline.

14 Q. I see. Okay. And do you know, was
15 there ever any -- was there ever any
16 forgiveness of debt between GMACM and ETS?

17 A. Not that I recall.

18 MR. PERRY: Now is a good stopping
19 point.

20 MR. LIPPS: All right.

21 THE VIDEOGRAPHER: The time is
22 12:51. We're off the record.

23 (A luncheon recess was taken from
24 12:51 p.m. through 1:32 p.m.)

25 BY MR. PERRY:

1 C. Dondzila

2 Q. Before you, Ms. Dondzila, is Westman
3 Deposition Exhibit 28. Can you identify the
4 document?

5 A. These are the audited consolidated
6 financial statements for GMAC Mortgage LLC for
7 the periods December 31, 2011 and 2010.

8 Q. Do these appear to be the financial
9 audited financial statements?

10 A. They do by the appearance of the
11 independent auditor's report.

12 Q. If you could go to page 36 in the
13 document, ends with 4316 if you are looking at
14 the Bates stamps. We had earlier in your
15 testimony been focused on the other liabilities
16 table, and particularly the payable to RFC. Do
17 you see the payable to RFC reflected in the
18 other liabilities table contained on Westman
19 Deposition Exhibit 28?

20 A. I do in footnote 9, yes.

21 Q. And am I correct that it reflects a
22 payable to RFC of 69,785,000 at the end of
23 2011?

24 A. That is correct.

25 Q. And there was no similar payable at

1 C. Dondzila

2 the end of 2010; correct?

3 A. That is correct.

4 Q. Does that suggest to you that the --
5 any payable was cash-settled at the end of
6 2010?

7 MR. LIPPS: Do you mean the absence
8 of the entry?

9 MR. PERRY: The absence of an
10 entry.

11 A. Can you repeat the question?

12 Q. Does the absence of an entry under
13 the line item "payable to RFC" on the table
14 under 2010 suggest to you a cash settlement of
15 an intercompany balance between those two
16 entities at the end of 2010?

17 A. No, it doesn't suggest that to me.

18 Q. What are the possible reasons for the
19 absence of an entry under the "payable to RFC"
20 column in 2010?

21 A. It could have been a receivable to
22 RFC at the end of 2010; or there could have
23 been no relationship that would have driven a
24 balance at the end of 2010; and/or it could be
25 that there was a relationship and there was a

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2 settlement of some sort, or a continuing
3 recordation of activity such that that -- what
4 was previously a payable flipped to a
5 receivable.

6 Q. Do you know whether the practice of
7 allocating corporate expense in the first
8 instance to RFC and then having RFC charge GMAC
9 Mortgage was in place in 2010?

10 A. I don't recall.

11 Q. Do you recall the practice of
12 allocation of corporate expense changing at any
13 point in time while you were controller?

14 A. I don't have a recollection of it,
15 no.

16 Q. And if I wanted to figure out whether
17 there was a receivable from RFC at the end of
18 2010, is there some place in this document that
19 I could discern that information?

20 A. Absent being shown on the face of the
21 balance sheet uniquely, to the extent it was
22 material, we would have included a footnote for
23 other assets or other accounts receivable, here
24 presented in footnote 6 on page 31, Bates
25 number ending 311, or footnote 7, other assets,

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2 same page.

3 Q. And looking at footnotes 6 and 7, do
4 you see any receivable -- well, would a
5 receivable -- would a receivable from RFC be
6 listed under the "Receivables from affiliates"
7 line item in the other assets table, note 7?

8 A. It's possible, yes. I can't say with
9 certainty, but it's possible, yes.

10 (Dondzila Exhibit No. 10 was marked for
11 identification.)

12 BY MR. PERRY:

13 Q. Before you is Dondzila Deposition
14 Exhibit 10. Can you identify the document?

15 A. Yes. This is the audit -- the annual
16 financial statements, consolidated financial
17 statements of Residential Funding Company LLC
18 for the years ending December 31, 2011 and
19 2010.

20 Q. Does this appear to be the final
21 consolidated financial statements?

22 A. It does, by inclusion of the
23 independent auditor's report.

24 Q. What's the principal place of
25 business of Residential Funding Company LLC?

1 C. Dondzila

2 MR. LIPPS: Did you ask her where
3 it is?

4 MR. PERRY: Yeah, where.

5 A. I believe that its corporate address
6 was in Bloomington, Minnesota.

7 Q. Go to the statement of income. You
8 had testified earlier, I believe, that you were
9 not certain whether interest was charged on the
10 receivable that Residential Funding Company LLC
11 held from its parent, Residential Capital LLC,
12 and you had directed me to the income
13 statement. My question is, reviewing the
14 income statement, are you able to deduce
15 whether interest was in fact charged on the
16 balance, the intercompany balance between
17 Residential Capital LLC and Residential Funding
18 Company LLC, at least during these periods?

19 MR. LIPPS: Objection to
20 characterization of prior testimony.

21 But go ahead and answer the question if
22 you can.

23 A. From the face of the income
24 statement, no, you cannot discern that.

25 Q. Are you able to discern that based on

1 C. Dondzila

2 your review of any other portion of the
3 document?

4 A. I would direct you in all cases to
5 the related party transaction footnote, in this
6 case starting on page 60, Bates number ending
7 298, and continuing on Bates number 299, page
8 61. And in regards to material related party
9 balances, both income statement, balance sheet
10 and statement of changes in equity, we would
11 have disclosed again material amounts that
12 existed as of the dates of the financial
13 statements.

14 And I do not see in any case under
15 the statement of income any reference to
16 interest income with Residential Capital.

17 Q. There is a reference to interest
18 expense with affiliates. Do you see that?

19 A. I do.

20 Q. Do you know what that refers to?

21 A. I do not.

22 Q. There's also a reference to
23 discontinued operations interest expense,
24 parent and affiliates. Do you know what that
25 refers to?

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2 A. Discontinued operations in the
3 context of generally accepted accounting
4 principles are business operations that meet --
5 the elimination or discontinuation of certain
6 business operations that meet certain standards
7 can be classified as discontinued operations.

8 What that, generally speaking, means
9 is that there's a reclassification of amounts
10 in the income statement that would have
11 otherwise been in other parts of the income
12 statement line items of revenue and other
13 revenue. It removes current and prior period
14 amounts and moves them down to a single line
15 called gain or loss from discontinued
16 operations.

17 In this case, if you look at footnote
18 2 on page 19, Bates last three 257, you can see
19 here that in October of 2010, we completed the
20 sale of certain of our international
21 operations, principally the United Kingdom and
22 continental Europe. Those platforms in fact
23 met the requirements for classification as
24 discontinued operations. As such, we made
25 reclassifications of prior period amounts.

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2 Correspondingly, the reference in the
3 related party transaction footnote 19, again on
4 page 61, taking you back there, would purport
5 to represent the interest expense that those
6 operations would have incurred and -- or would
7 have recognized.

8 And I'll take you back. This may be
9 in part but not wholly -- this is likely
10 interest expense that RFC and the entities
11 would have recognized on those PATI notes and
12 other notes of that nature. That is, interest
13 expense that would have been recorded in all
14 likelihood in Viaduct and Flume, but in a more
15 complicated way that's not necessarily helpful,
16 would have been recorded previously in the
17 financial statements of RFC.

18 Q. I see.

19 A. But that would show as interest
20 expense that was paid to parent and affiliates.

21 (Dondzila Exhibit No. 11 was marked for
22 identification.)

23 BY MR. PERRY:

24 Q. Before you is Dondzila Deposition
25 Exhibit 11. It's an email and a series of

1 C. Dondzila

2 attachments. If you could take a moment and
3 review Ms. Westman's email to Mr. Stern and
4 Mr. Renzi. You're copied on it at the top of
5 the first page.

6 A. Got it.

7 Q. You give some description of
8 intercompany agreements that existed at least
9 in 2012. Do you see that?

10 MR. LIPPS: Where are you
11 referencing?

12 MR. PERRY: She says: "Note, in
13 many cases we have agreements that
14 support ResCap lending money to the
15 subsidiaries; however, some of these
16 balances have flipped and the subs are
17 now lending money instead. The
18 agreements are sometimes with ResCap,
19 but the intercompany balances are with
20 the direct parent, not with ResCap
21 itself."

22 Q. Do you see that text?

23 A. I do.

24 Q. And Ms. Westman writes,
25 "Unfortunately, this is a little rough, but the

1 C. Dondzila

2 best we have."

3 Do you have any understanding of how
4 it came to be that, for example, there were
5 intercompany balances with the direct parents,
6 not with ResCap itself, but intercompany
7 agreements between ResCap and the subsidiary in
8 question?

9 A. Can you repeat the question, please?

10 Q. Well, it's a bad question so let's
11 just go to one of the agreements. It ends with
12 the Bates label 30819.

13 A. I have it.

14 Q. This is an agreement between

15 Residential Capital LLC and PATI; correct?

16 A. That is correct.

17 Q. And Residential Capital LLC is the
18 ultimate parent; correct?

19 A. Yes.

20 Q. And the intercompany balances, at
21 least as they respected PATI, were between PATI
22 and GMAC Mortgage LLC; correct?

23 A. The balances that we've covered
24 previously were between, yes, PATI and GMAC
25 Mortgage.

1 C. Dondzila

2 Q. Are you aware of any direct balances
3 between PATI and Residential Capital LLC?

4 A. I'm not, no.

5 Q. Do you know whether -- first of all,
6 did you participate in the drafting of this
7 intercompany advance agreement?

8 A. I did not.

9 Q. Do you know how it came to be that
10 the advance agreement was put in place in June
11 of 2009?

12 A. I would expect this to have been
13 executed in or about the time of the ResCap
14 debt restructuring.

15 Q. Okay.

16 A. Or was that 2008? Was that 2008? So
17 no, I don't know. I don't know why this would
18 have been done in June of 2009.

19 Q. Do you see there's a block on the top
20 right-hand corner that says T930? What does
21 that mean?

22 A. I don't know.

23 Q. Is there some centralized system at
24 ResCap where contracts for each of the relevant
25 legal entities was kept?

1 C. Dondzila

2 A. Not that I'm aware.

3 Q. Was there any general policy about
4 when an intercompany relationship needed to be
5 memorialized with a contract or an advance
6 agreement or something like that, versus just
7 simply having an intercompany relationship
8 recorded on the books and records of the
9 company?

10 A. Not that I was aware.

11 Q. And if you go to the signature page,
12 the signature by John Peterson, do you know who
13 Mr. Peterson is?

14 A. He was serving within -- I knew him
15 to be serving within the treasury department.
16 It clearly indicates here that his title at
17 that point was assistant treasurer.

18 Q. I take it Mr. Peterson didn't report
19 to you. Right?

20 A. He did not.

21 Q. Who did he report to?

22 A. I believe he reported to the chief
23 financial officer, Jim Young, at the time.

24 Q. If you look at Exhibit A to the
25 intercompany agreement, there's a promissory

1 C. Dondzila

2 note. Did your department keep promissory
3 notes reflecting the intercompany relationships
4 anywhere within the department?

5 A. Not that I'm aware.

6 Q. Is this type of agreement something
7 that would have been maintained by treasury?

8 A. Yes.

9 Q. And do you know what attempts were
10 made -- strike that.

11 Was there an attempt in 2012 to try
12 and identify all of the intercompany
13 agreements, at least as they respected the
14 intercompany obligations?

15 A. In 2012, we undertook to analyze our
16 intercompany balances and relationships for
17 compliance with the newly issued Ally Financial
18 policy, but I'm not aware of any other reason
19 why we would have undertaken in 2012 any other
20 comprehensive review of our intercompany
21 relationships.

22 Q. I guess the reason I'm asking is
23 Ms. Westman appears to be transmitting a series
24 of agreements to folks from FTI.

25 MR. LIPPS: So what's the question?

1 C. Dondzila

2 Q. I'm wondering if you're aware of FTI
3 making a request for intercompany policies or
4 agreements of Ms. Westman.

5 A. So my mistake. Clearly, we were
6 headed toward filing for bankruptcy, or -- no,
7 actually -- yeah, we filed in 2012 for
8 bankruptcy, so this would have been in
9 anticipation of the bankruptcy.

10 Q. So just to orient you, I think you
11 filed in May of --

12 A. Correct.

13 Q. -- 2012.

14 A. That is correct.

15 Q. Do you know of any effort to search
16 the treasury department for potentially
17 applicable agreements between these -- the
18 legal entities with -- under Residential
19 Capital LLC?

20 A. You'd have to ask Barb. Barb was
21 primarily the one that was searching those out,
22 Barb Westman.

23 Q. And if I want to talk to somebody
24 from treasury about how records were -- records
25 and contracts and agreements were kept in the

1 C. Dondzila

2 ordinary course in that department, who would
3 be the person best to speak with?

4 A. Well, certainly for the period -- for
5 some part of the period, it would be John
6 Peterson. After he left, I believe Joe --
7 there's a gentleman, Joe Ruhlin, who also
8 served in a capacity within the treasury
9 department. I think there was someone that
10 served in a treasury capacity in between those
11 two, but I don't recall his name.

12 Q. By the time you left in 2013, or at
13 the time you left in 2013, who were the folks
14 in charge of the treasury department?

15 A. Joe Ruhlin.

16 Q. I don't want you to speculate, but if
17 you go back to the PATI intercompany agreement
18 that we were looking at, remember I asked you
19 about the box in the upper right-hand corner?

20 A. Uh-huh.

21 Q. And it said T930. Does the use of
22 the letter T -- well, are you able to identify
23 this as some filing system or marking system
24 that the treasury department used for their
25 contracts?

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2 MR. LIPPS: Objection, asked and
3 answered already. But go ahead.

4 A. I don't know if that corresponded to
5 a filing system that they used.

6 Q. Okay. Were there entities within the
7 ResCap system that could not perform debt
8 forgiveness without approval from a federal
9 agency?

10 MR. LIPPS: Just note my objection
11 to the extent you're asking her for some
12 legal conclusion on that. But go ahead
13 if you know.

14 A. I'm not aware that any of the
15 entities within the ResCap family -- I guess
16 I'll take that back. It's possible that in the
17 international entities, although I don't have
18 direct knowledge of it, it's possible that in
19 the international space that there could have
20 been restrictions on debt forgiveness in
21 connection with some regulatory guidance or
22 other. But domestically, I'm not aware of
23 anything that would have required approval by a
24 federal agency.

25 Q. Was there ever an effort in 2012 to

Plaintiff's
Objection
117:25-118:18
Objection to
form; vague
and
ambiguous

1 C. Dondzila

2 track the intercompany, the largest
3 intercompany balances on a year-by-year basis
4 and track how they moved?

5 MR. LIPPS: Objection to form. I'm
6 not sure I know what you're asking. But
7 go ahead.

8 A. In connection with satisfying data
9 requests from parties with interests in the
10 bankruptcy, we did go back and, to the best of
11 our abilities, pull year-end intercompany
12 balances for certain relationships based on
13 those requests.

14 Q. And do you have any understanding of
15 why parties were seeking that information?

16 A. I wasn't interested in why they were
17 seeking that information. I was just providing
18 what they asked us for.

19 Q. Anybody ever tell you why they were
20 interested in that particular information?

21 A. Not directly.

22 Q. What about indirectly?

23 A. I could infer that it was in relation
24 to the question of whether it was debt or
25 equity.

1 C. Dondzila

2 Q. And on the question of whether it was
3 debt or equity, is that an issue that you ever
4 arrived at any conclusion about?

5 MR. LIPPS: Objection. I think
6 you've already asked that and she's
7 already answered it, but go ahead.

8 A. The answer's no.

9 Q. Were you ever asked to provide a
10 conclusion about that --

11 A. I was not.

12 MR. LIPPS: Note my objection. I
13 think that was asked and answered too.

14 Q. Did there come a point in time when
15 AlixPartners began analyzing the intercompany
16 balances?

17 A. And who did AlixPartners represent?

18 Q. The unsecured creditors. Creditors
19 committee. Do you know?

20 A. There were a lot of people who were
21 asking us for things. The name is familiar. I
22 don't --

23 Q. Who other than FTI did you -- did you
24 have any meetings with professionals other than
25 FTI about the intercompany balances?

1 C. Dondzila

2 MR. LIPPS: I don't want you to
3 talk about any meetings you may have had
4 with lawyers.

5 A. Yes, FTI would facilitate phone calls
6 where we would participate to be available to
7 answer questions in regard to documentation
8 that we had provided in response to some
9 inquiry they'd made.

10 Q. Okay. And do you have any particular
11 recollection of the names of the firms that you
12 met with during one or all of the phone calls?

13 A. No. I don't have any particular
14 recollection.

15 Q. Did you -- your counsel objected
16 earlier. Without going into -- I don't want
17 any detail, but just yes or no. Did you meet
18 with lawyers about the intercompany balances in
19 the beginning of 2012?

20 MR. LIPPS: I think that that
21 question assumes some specific
22 communications which would intrude on
23 the privilege.

24 MR. PERRY: I think the question --
25 I tried to frame the question generally

1 C. Dondzila

2 enough --

3 MR. LIPPS: Yeah, but you got the
4 subject matter. You're asking her
5 particular meetings that she had on a
6 particular subject, and I think that
7 invades the privilege.

8 MR. PERRY: Right. But you would
9 put a subject matter, broadly, as
10 broadly as I expressed it, on a
11 privilege log. So I don't think that
12 level of question with that level of
13 specificity invades the privilege.

14 MR. LIPPS: I'll let her answer it
15 yes or no as long as you agree that
16 that's not going to be argued that
17 that's some waiver of the privilege.

18 MR. PERRY: So stipulated.

19 THE WITNESS: The question again,
20 please?

21 MR. LIPPS: Did you ever meet with
22 lawyers.

23 Q. Did you meet with lawyers about the
24 question of -- about the issue of the
25 intercompanies?

1 C. Dondzila

2 A. Yes.

3 Q. Did you meet with lawyers from the
4 Kramer Levin firm about the issue of the
5 intercompanies?

6 MR. O'NEILL: The beginning of 2012
7 still?

8 MR. PERRY: Or the beginning of
9 2013.

10 Q. At any point in time, let me put it
11 that way.

12 A. I don't recall if it was with
13 representatives of Kramer Levin, no.

14 Q. What did you do to prepare for your
15 deposition here?

16 MR. LIPPS: I don't want you to
17 talk about any specific conversations
18 that you had, but you can certainly
19 identify what you did.

20 A. We met first to acclimate me to what
21 the process is, given that I've never been --

22 Q. Don't go into detail.

23 MR. LIPPS: Don't go into detail.
24 Just you had a meeting.

25 A. Yes, we had a meeting. We had a

1 C. Dondzila

2 meeting. Thank you. We had a meeting.

3 Q. Who were the lawyers present at your
4 meeting?

5 A. Mr. Lipps to my left, to my far left;
6 Alex Barrage across the table and to my left.
7 And I'm forgetting the other Alex from
8 Morrison & Foerster who is not here today.

9 Q. And roughly how long did you prepare
10 for?

11 A. Our meeting lasted a little bit over
12 probably three and a half hours.

13 Q. Just one meeting?

14 A. Just one.

15 (Dondzila Exhibit No. 12 was marked for
16 identification.)

17 BY MR. PERRY:

18 Q. Directing your attention to
19 Mr. McDonald's email to Ms. Westman at the
20 bottom of the second page, you're copied on it.
21 Mr. McDonald writes to Ms. Westman, "I think to
22 the extent that any of these are 'off the
23 shelf' and easily answered, we should provide
24 these answers." Do you see that?

25 A. I do.

1 C. Dondzila

2 Q. Do you -- were there requests for
3 information provided by third-party advisors
4 that you were ultimately not able to satisfy in
5 connection with your review of the intercompany
6 loans?

7 A. I'm sure that there were requests we
8 did not satisfy to the extent that the
9 requester would have liked us to respond. But
10 we did respond to every request, to my
11 knowledge, to the best of our abilities.

12 Q. And so you never ignored a request
13 because it was too difficult to respond to or
14 because the answers weren't off the shelf and
15 easy; right?

16 MR. LIPPS: Objection to form,
17 characterization. Go ahead.

18 A. We frequently negotiated with the
19 requesters in the event that it was either
20 time-consuming or the request could not be
21 fulfilled in the way that they had asked it to
22 be fulfilled. So there was a significant
23 amount of give-and-take, generally speaking,
24 arbitrated and intermediated by FTI on our
25 behalf. But again, I'm not aware of anything

1 C. Dondzila

2 that we did not provide that someone asked for.

3 Q. Between March of 2012 and the time
4 you left the company, how much work did you and
5 your staff do on the intercompany balance
6 issue?

7 A. I couldn't even estimate. Lots.

8 Q. A lot of time spent?

9 A. Yes, a lot of time.

10 Q. And Ms. Westman spent a lot of time
11 working on the issue; correct?

12 A. She would have been the principal --
13 the principal contact for that, yes.

14 Q. Okay. And who else was tasked with
15 doing that review, assisting Ms. Westman?

16 A. She would have delegated portions of
17 the work to members of the general ledger team
18 that would have included Jake Bazella and
19 others under his day-to-day management.

20 Q. Is it fair to say this was a
21 substantial project that your staff worked on
22 between March of 2012 and the time you left the
23 company?

24 MR. LIPPS: Objection, form.

25 A. I don't think I'd put it in the class

1 C. Dondzila

2 of substantial, but I would put it on one of
3 the higher lists that did require a lot of
4 resources.

5 Q. From your perspective, this was an
6 important issue in the bankruptcy case. Is
7 that fair?

8 MR. LIPPS: Objection. Go ahead.

9 A. From my perspective, it was a topic
10 that required a lot of follow-up and a lot of
11 analysis on our part to satisfy requests.

12 Q. If you go to the last page of this
13 document, there's an email from Marc Landy to
14 Mark Renzi and Brian McDonagh, and I'm
15 interested in the very last page that says
16 "Other Follow-up."

17 MR. LIPPS: Bates number 7040 is
18 the last four?

19 MR. PERRY: You know what? Go to
20 the Bates number ending 7034.

21 A. Uh-huh.

22 MR. LIPPS: Okay, 7034.

23 Q. You see question number 2?

24 A. I do.

25 Q. Do you know whether you or your staff

1 C. Dondzila

2 was ever able to answer this question?

3 A. I believe there was follow-up work on
4 that item.

5 Q. Do you know what the answer was?

6 A. I don't recall what the final
7 conclusion was.

8 Q. You understand the question as you
9 sit here today?

10 MR. LIPPS: Objection, but go
11 ahead.

12 A. The question as it's written, the way
13 that I read this question, is asking why if
14 there was 2.6 billion of forgiveness,
15 3.3 billion minus 2.6, which would be
16 700 million, why the balance between GMAC
17 Mortgage and -- why there was a disparity of
18 differences because it was 51 million versus
19 700 million. And there was an expectation that
20 these two balances moved in tandem.

21 Q. And I take it -- did the two balances
22 move in tandem?

23 A. They did not in all cases, no.

24 Q. Okay. So Res Holdings is purely a
25 holding company; right?

1 C. Dondzila

2 A. That is correct.

3 Q. Why would they have not moved in
4 tandem?

5 A. I don't have the details of exactly
6 why they didn't move in tandem.

7 Q. Do you recall being told that the
8 waterfall team at FTI was trying to analyze
9 cash balances without the intercompany movement
10 of cash?

11 A. I don't recall that.

12 (Dondzila Exhibit No. 13 was marked for
13 identification.)

14 BY MR. PERRY:

15 Q. Before you is Dondzila Exhibit 13.
16 Just take a minute to familiarize yourself with
17 the document.

18 A. Okay.

19 Q. Do you have any understanding of the
20 purpose of the exercise identified in
21 Mr. McDonagh's email at the bottom of the third
22 page of the document?

23 A. No, I don't actually understand what
24 the purpose of -- what his actual purpose was
25 for doing this, from this email.

1 C. Dondzila

2 Q. Do you know whether this project was
3 ever completed?

4 A. I don't know definitively if it was
5 ever completed, no.

6 Q. Is it a project that you participated
7 in in any meaningful way?

8 A. Clearly from the email I was provided
9 a copy of something that I reviewed. I
10 provided comments and received feedback in
11 regards to those comments. I wouldn't say that
12 that was substantive or significant, but I
13 clearly was part of the process.

14 Q. Other than receiving a copy of a
15 document and commenting on it, do you recall
16 doing anything else in connection with this
17 project?

18 A. I don't.

19 Q. Were you involved in the decision to
20 schedule the intercompany loans on the debtor's
21 statement of assets and liabilities filed in
22 connection with the bankruptcy?

23 A. Yes. My team and I prepared the SOFA
24 and SOL.

25 Q. Do you recall whether there was an

1 C. Dondzila

2 issue about how the intercompanies would be
3 characterized on those documents?

4 A. I don't recall any issue with that,
5 no.

6 Q. Were you aware of anybody giving any
7 consideration to not scheduling the
8 intercompanies on the SOFA and the SOL?

9 A. No, I'm not aware of that.

10 Q. Is it fair to say that by the time
11 the SOFA and the SOL were filed, you and your
12 staff had done a significant amount of work
13 analyzing the intercompany balances?

14 A. We would have done -- yes, we would
15 have done a fair amount of analysis on the
16 intercompany balances by then, yes.

17 Q. And as part of that analysis --
18 strike that.

19 (Dondzila Exhibit No. 14 was marked for
20 identification.)

21 BY MR. PERRY:

22 Q. Before you is Dondzila Exhibit 14.
23 It's an email from Ms. Westman to you, and it
24 appears to forward a string of emails to
25 Mr. Renzi -- starting on the second page, to

1 C. Dondzila

2 Mr. Renzi from folks at Houlihan.

3 Do you have any understanding of who
4 Houlihan represented?

5 A. I don't recall.

6 Q. You believe there's some bolded text
7 that appears to be interlineated in Mr. Lewis
8 from Houlihan's email. Are you able to tell
9 either by the face of the email or through
10 recollection whether that's your text or
11 Ms. Westman's?

12 MR. LIPPS: Just so the record's
13 clear, you're talking about the bolding
14 on 512 and 513?

15 MR. PERRY: Yes.

16 A. It's not clear to me that it's mine
17 or Barb's.

18 Q. Well, do you have any recollection of
19 writing any of the bolded text?

20 A. No, I do not.

21 Q. If you look at -- go to 513,
22 Mr. Lewis writes: "We know the schedules will
23 be published this week, but since we have not
24 seen them, we do not know how the intercompany
25 claims will be described/detailed in the

1 C. Dondzila

2 schedules. We anticipate we'll start getting
3 calls on the schedules starting on Monday.
4 We'd like to be able to say more than, dot,
5 dot, dot, the company has indicated the
6 intercompany claims should be treated as equity
7 contributions."

8 And then there's some bolded text
9 that reads, "I believe this is what is holding
10 things up. We are not disclosing that these
11 claims should be treated as equity
12 contributions, therefore, we haven't responded
13 as of yet."

14 Did you write those words?

15 A. I don't know. I don't recall.

16 MR. LIPPS: Objection, asked and
17 answered.

18 Q. Do you have any understanding of
19 the -- well, were the schedules held up for a
20 period of time before they were published in
21 June of 2012?

22 A. I'm not sure what the reference to
23 schedules means, so no, I'm not aware of
24 anything being held up. I'm not aware we
25 didn't file everything that we were required to

1 C. Dondzila

2 file timely.

3 Q. Regardless of timely or not timely,
4 my question is, do you recall there being a
5 delay while people considered how to
6 characterize certain things on the schedules,
7 for example?

8 MR. LIPPS: Doesn't delay assume
9 timely, or untimely? Go ahead and
10 answer. I'll object.

11 MR. PERRY: Linguistically, no.

12 Q. Do you understand my question?

13 A. I do. Given that none of us on the
14 ResCap side had been through a bankruptcy
15 before and were not familiar with the specific
16 requirements around certain of the filings that
17 we had to make, I am positive that we took time
18 to understand how things should be presented,
19 and I'm equally positive that there were things
20 that came up where we had questions about how
21 to present something in a schedule. But I'm
22 not aware of anything that got held up because
23 of disagreements or, as this seems to imply,
24 that there was some question about how
25 something would be disclosed here.

Plaintiff's
Objection
133:3-134:3
Beyond the
scope of
affirmative
testimony

1 C. Dondzila

2 But I'm positive we had questions
3 about how to disclose things.

4 Q. Okay. And particularly with respect
5 to whether the intercompany balances would be
6 disclosed as debt, equity, or something else,
7 do you recall that being an issue that you and
8 your staff had questions about in preparing the
9 schedules?

10 MR. LIPPS: In answering that I
11 don't want you to disclose any
12 conversations that you may have had with
13 counsel.

14 A. I don't recall there being any
15 questions about how -- that we raised about how
16 to present those in the SOFAs and the SOLs.

17 Q. Did you raise questions about how
18 those balances should be presented somewhere
19 else? You limited your answer to the SOFAs and
20 the SOLs. Was there some other place that you
21 were contemplating disclosing them and opted
22 either to disclose or not to?

23 MR. O'NEILL: Object to form.

24 MR. LIPPS: Objection. Objection.

25 A. As I mentioned before, they were

1 C. Dondzila

2 excluded -- for my purposes and how we
3 interacted with the waterfall, they were not --
4 we were not privy or party to any of that and
5 how they were presented there, so that was the
6 cause for my exclusion, I guess, or whatever I
7 said by limiting my response. I'm not aware of
8 anything else.

9 Q. So they were listed in the schedules,
10 but not taken into account in the waterfall;
11 correct?

12 A. I was not part of any decision of how
13 or if they were included in the waterfall.

14 Q. Okay. Do you know whether -- well,
15 strike that. By the time the SOFAs and the
16 SOLs were filed in the bankruptcy, are you able
17 to estimate how much time you and your staff
18 had spent on the intercompany issues?

19 A. No.

20 Q. Fair to say hundreds of hours?

21 MR. LIPPS: Objection.

22 A. I don't know that I could put numbers
23 around it.

24 Q. Certainly a lot of time, though;
25 correct?

1 C. Dondzila

2 MR. LIPPS: Objection, asked and
3 answered. Go ahead.

4 A. It was definitely an area where we --
5 a focus, definitely an area of focus.

6 Q. And you understood at least at the
7 time the SOFAs and the SOLs were filed, there
8 were differing potential treatments that would
9 be significant in the context of the
10 bankruptcy, either debt or equity; right?

11 MR. O'NEILL: Objection.

12 MR. LIPPS: Objection. I think
13 you've already asked her about this, but
14 go ahead with the caution I don't want
15 you to reveal any conversations that you
16 had with counsel.

17 A. I was aware that there would need to
18 be -- that there was a -- I was aware that the
19 characterization of intercompany balances as
20 debt or equity was a topic in the context of
21 the bankruptcy, yes.

22 Q. And you were aware of that prior to
23 the filing of the SOFA and the SOLs; right?

24 A. Yes.

25 MR. PERRY: We take a break?

1 C. Dondzila

2 THE VIDEOGRAPHER: The time is
3 2:31. We're off the record.

4 (Recess taken.)

5 THE VIDEOGRAPHER: The time is
6 2:42. We're on the record.

7 (Dondzila Exhibit No. 15 was marked for
8 identification.)

9 BY MR. PERRY:

10 Q. Ms. Dondzila, before you is Dondzila
11 Deposition Exhibit 15. It's a copy of a Notice
12 of 30(b)(6) Deposition served by the ad hoc
13 group of junior secured noteholders in the
14 Residential Capital bankruptcy case. It's
15 addressed to Residential Capital LLC and its
16 affiliated debtors.

17 My understanding, ma'am, is that
18 you've been designated as a representative of
19 ResCap LLC and its affiliated debtors to give
20 testimony on behalf of the debtors in
21 connection with topic number 16. Is that
22 consistent with your understanding?

23 MR. LIPPS: Yeah. I'll just put on
24 the record I think we did confirm that
25 in an email, and I spoke to you briefly

1 C. Dondzila

2 about it, that she is somebody that we
3 have designated for that topic as we
4 understand it.

5 MR. PERRY: Okay.

6 Q. Is that consistent with your
7 understanding, Ms. Dondzila?

8 A. Yes, with 16 being all matters
9 concerning negotiations undertaken through the
10 Brokering Consumer Loans Project.

11 Q. And other than conversations with
12 your counsel, have you had discussions with
13 anybody from the debtors in which they
14 authorized you to provide testimony on behalf
15 of the debtors with respect to number 16?

16 A. I did not speak with anybody from the
17 debtors. I only spoke to counsel.

18 Q. Okay. What is your understanding of
19 the dispute between the debtors and Ally with
20 respect to the Brokering Consumer Loans
21 Project?

22 MR. LIPPS: I'll object.

23 MR. O'NEILL: Objection.

24 MR. LIPPS: Object to the form.

25 I'm not sure that's an accurate

1 C. Dondzila

2 characterization. But go ahead.

3 A. I'm not aware that there's a dispute,
4 that there was a dispute between the debtors
5 and Ally.

6 Q. Okay. Did you -- you participated
7 in -- well, did you sit for any interviews with
8 the examiner appointed in these bankruptcy
9 cases?

10 A. I sat for two interviews with a
11 special examiner that was appointed in the
12 ResCap bankruptcy case, yes.

13 Q. And did you understand the examiner
14 to be, among other things, investigating causes
15 of action that the debtors might have against
16 Ally?

17 A. Generally, that was my understanding,
18 yes.

19 Q. And did you understand that one of
20 the causes of action the examiner was reviewing
21 was breach of contract claims arising out of
22 the Brokering Consumer Loans issue?

23 MR. LIPPS: Objection to form.

24 MS. WU: Objection to form.

25 A. I understood that he asked me

1 C. Dondzila

2 questions about that matter. I had no reason
3 to know what his goals or objectives were in
4 that regard.

5 Q. Have you reviewed any portion of the
6 examiner's financial report?

7 A. I did not.

8 Q. In connection with preparing to be a
9 30(b)(6) witness on topic number 16, did
10 anybody summarize the examiner's conclusions
11 with respect to the Brokering Consumer Loans
12 Project?

13 MR. LIPPS: Well, I don't want you
14 to disclose any conversations that you
15 had with counsel, so I don't know what
16 you're asking her other than trying to
17 get into that discussion.

18 MR. PERRY: She's a 30(b)(6)
19 witness. I guess --

20 MR. LIPPS: She's not a 30(b)(6)
21 witness on what the examiner did.

22 MR. PERRY: If her testimony is not
23 going to rely upon and she's not going
24 to give answers with respect to what she
25 learned from counsel, that's fine.

1 C. Dondzila

2 MR. LIPPS: That's right. And she
3 said --

4 MR. PERRY: If she's being prepped
5 and part of the way that you're
6 preparing her is telling her these are
7 the facts and these are not the facts,
8 and she's going to testify on behalf of
9 the business, I'm entitled to examine
10 her on these subjects.

11 MR. LIPPS: I understand that. But
12 the way you've asked the question I
13 think gets you inside of the discussion
14 with counsel. She's already said she
15 didn't review the examiner report, so I
16 don't know what more you need on it.

17 Q. Do the debtors have a view about
18 whether they have strong claims against Ally
19 with respect to the Brokering Consumer Loans
20 Project?

21 MS. WU: Objection.

22 MR. O'NEILL: Objection.

23 MR. LIPPS: Objection.

24 MR. PERRY: What's the nature of
25 the objection?

1 C. Dondzila

2 MR. O'NEILL: I say it's work
3 product.

4 MR. LIPPS: Yeah, it is asking for
5 a legal conclusion.

6 MR. PERRY: I'm asking for the
7 debtor's view.

8 MR. LIPPS: On what?

9 MR. O'NEILL: They have strong
10 legal claims?

11 MR. PERRY: Yeah.

12 MR. LIPPS: No, no.

13 MR. PERRY: So you're not going to
14 permit the company to answer the
15 question about whether it has strong
16 legal claims?

17 MR. LIPPS: The company will answer
18 questions about the brokering project
19 and the investigations that followed on
20 from that, but they're not -- the
21 company's not going to answer whether it
22 believes it has legal claims or not
23 legal claims.

24 MR. O'NEILL: She's a 30(b)(6) on
25 negotiations undertaken through the

1 C. Dondzila

2 Brokering Consumer Loans Project.

3 That's it. Not on claims the company
4 might think it has.

5 MR. PERRY: Okay.

6 Q. Did you participate personally in the
7 negotiations undertaken through the Brokering
8 Consumer Loans Project?

9 A. I did not participate directly in the
10 negotiations, no.

11 Q. Who participated in those
12 negotiations?

13 MR. O'NEILL: Objection.

14 MR. PERRY: What's the nature of
15 the objection?

16 MR. O'NEILL: It's unclear. You're
17 asking her about your 30(b)(6) topic,
18 not something she necessarily
19 understands. You phrased the --

20 MR. LIPPS: She can answer, try and
21 answer what you've asked. I didn't stop
22 her from doing that.

23 MR. PERRY: I know you didn't, but
24 I was intrigued about the objection.

25 MR. LIPPS: Yeah, go ahead.

1 C. Dondzila

2 A. Jim Young, as the chief financial
3 officer, would have been involved. I do not
4 know who would have been involved on the Ally
5 Bank side.

6 Q. Well, what's your understanding of
7 pre -- let's take pre-2009, what the
8 arrangement was between GMACM and Ally with
9 respect to the Brokering Consumer Loans
10 Project?

11 MR. LIPPS: Pre-2009? There wasn't
12 a broker's agreement.

13 MR. PERRY: Okay.

14 MR. LIPPS: So I'm not sure I know
15 what you're asking. But if you know
16 what he's asking, go ahead.

17 Q. Let's do it this way, Ms. Dondzila.
18 What is your understanding as the corporate
19 representative of the debtors what the
20 Brokering Consumer Loans Project was?

21 A. There was an initiative at the end of
22 2008 that would change the operational and
23 business interactions between Residential
24 Capital, broadly, including its affiliates, and
25 Ally Bank specifically in connection with the

1 C. Dondzila

2 origination of and holding of loans,
3 residential mortgage loans, prior to their sale
4 to the -- into the secondary markets.

5 Q. Okay. And prior to the change in the
6 operation and business relationship between the
7 two entities, can you describe the operation
8 and business relationship of the two entities
9 with respect to -- with respect to this
10 particular project?

11 A. Prior to the implementation of the
12 broker to bank agreement, using that as the
13 nomenclature for the actual form of the
14 agreement, GMAC Mortgage would have been the
15 named originator and would have funded loans in
16 its name, residential mortgage loans. Some
17 portion of those loans would have been
18 subsequently sold to Ally Bank. Ally Bank
19 would have held those loans and held them on
20 their balance sheet until such time as they
21 were pooled and sold -- well, sold from Ally
22 Bank back to GMAC Mortgage, who would then pool
23 those loans and sell them into the secondary
24 market.

25 Q. What was the purpose of the sale of

1 C. Dondzila

2 the loans to Ally and then back?

3 A. Ally provided -- would finance the
4 loans, so by the purchase, they would be
5 holding and financing those loans.

6 Q. And the loans were pooled and then
7 sold by GMACM?

8 A. That is correct.

9 Q. Okay. And if the value of the loans
10 went down below the amount of funds -- strike
11 that.

12 If the value -- if the loans were not
13 able to be sold for the amount that they were
14 acquired for, the funding that was provided for
15 the loans, who bore that risk of loss prior to
16 2009?

17 MR. LIPPS: Objection to form, but
18 go ahead.

19 A. There were separate agreements that
20 existed between the companies, GMAC Mortgage
21 and Ally Bank, one of which was an -- a
22 derivative contract between the two entities
23 that would have resulted economically in GMAC
24 Mortgage bearing the risk of a decline in value
25 of the loan, conversely benefiting from an

1 C. Dondzila

2 increase in the value of the loan.

3 Q. And did that change at any time
4 during 2009?

5 A. No. There were no changes to that
6 agreement. There were no changes to the
7 derivative agreement.

8 Q. Okay. Were there changes to any
9 other agreements -- well, let's start this way.
10 What were the varying agreements that
11 memorialized the relationship between GMACM and
12 Ally about this particular subject?

13 MS. WU: Just to clarify, by
14 "Ally," you mean Ally Bank?

15 MR. PERRY: Sure.

16 MR. LIPPS: As it relates to the
17 sale and purchase of loans.

18 MR. PERRY: Yes.

19 A. There was a master mortgage loan
20 purchase and sale agreement, there was the
21 derivative that I just referenced. It would
22 have been by differing people called the held
23 for sale swap or the pipeline swap. And, once
24 executed, there was the broker agreement.
25 There was also a client agreement I believe is

1 C. Dondzila

2 how we refer to it in the financial statements.

3 The client agreement governed the
4 sale of loans from -- or the -- I believe the
5 client agreement covered the purchase and sale
6 of loans between the two entities. The
7 primary, though, in principal agreement that
8 did that was the master mortgage loan purchase
9 and sale agreement.

10 Q. So broadly speaking, the idea was
11 GMACM would broker loans, Ally Bank would in
12 turn provide the funding for the loans.

13 Correct?

14 MR. LIPPS: Talking about under the
15 broker agreement?

16 MS. WU: Object.

17 Q. Under the broker agreement.

18 A. Under the broker agreement, Ally Bank
19 would underwrite and would fund in its name the
20 residential mortgage loan, yes.

21 Q. And after Ally Bank funded in its
22 name the residential mortgage loan, it would
23 sell the loan to GMACM? Is that right?

24 A. Yes.

25 Q. Okay. And how long would that take

1 C. Dondzila

2 for the sale to occur? Did Ally hold the loan
3 on its books for a material amount of time?

4 MR. O'NEILL: Object to form.

5 MR. LIPPS: Two different
6 questions. Which one do you want to
7 answer?

8 MS. WU: Object to form.

9 Q. Did Ally hold the loans on its books
10 for a material amount of time?

11 MR. LIPPS: Ally Bank?

12 MR. PERRY: Ally Bank.

13 MR. O'NEILL: Objection.

14 MS. WU: Objection.

15 MR. LIPPS: Objection.

16 A. No.

17 Q. It would instantaneously sell them
18 back to GMACM; is that correct?

19 MR. LIPPS: Objection.

20 MS. WU: Objection.

21 A. No.

22 Q. Okay. How long was it held on Ally
23 Bank's books, the loans?

24 A. On average, 25 days.

25 Q. And the loans were then sold back to

1 C. Dondzila

2 GMACM; correct?

3 A. Yes.

4 Q. And then the loans were pooled by

5 GMACM; is that right?

6 A. Yes.

7 Q. And GMACM, after it pooled a number
8 of loans, would ultimately sell them as part of
9 a securitization or some other transaction;
10 right?

11 MR. LIPPS: Objection to form, but
12 go ahead.

13 A. In 2009, it would have been pooled
14 and sold through either a Freddie, Fannie, or a
15 Ginnie securitization. There would have been
16 no private label.

17 Q. And how long were the loans pooled?
18 How long did it take for the pooling process to
19 occur, on average?

20 MR. LIPPS: Objection.

21 A. That part of the process was
22 effectively instantaneous.

23 Q. And if the loans declined in value
24 for the roughly 25 days that they were held at
25 Ally Bank, who bore the risk of loss under

1 C. Dondzila

2 these agreements? Which entity?

3 A. GMAC Mortgage.

4 Q. And conversely, if the loans

5 appreciated in value, is it correct that GMAC

6 Mortgage would be able to recognize the profit

7 on the loans?

8 MR. LIPPS: Talking about the
9 broker agreement?

10 MR. PERRY: On the sale of the
11 loan.

12 MR. LIPPS: Under the broker
13 agreement.

14 MR. PERRY: Under the broker
15 agreement.

16 MR. LIPPS: Sale into secondary
17 market; there's a gain.

18 MR. PERRY: Yes.

19 A. So you're talking about two different
20 things, but the answer is yes, GMAC Mortgage
21 would benefit from an increase in value from
22 the point a loan was locked to the point that a
23 loan was ultimately resold back to GMAC
24 Mortgage. And to the extent that there was any
25 gain recognized on the sale of that mortgage

1 C. Dondzila

2 into the secondary market through the pooling
3 process, GMAC Mortgage would have been entitled
4 to that gain as well.

5 Q. Okay. And under this arrangement,
6 what gain -- what was the profit opportunity
7 for Ally Bank?

8 MR. LIPPS: Under the broker
9 arrangement?

10 MR. PERRY: Yes.

11 MR. LIPPS: Note my objection.
12 Answer if you can.

13 A. Ally Bank's profit would have been
14 similar to any other underwriter who
15 underwrites and funds mortgage loans. To the
16 extent there are fees that are collected, to
17 the extent that there are, you know, points
18 collected, to the extent that those are in
19 excess of their costs, those would be the
20 profits that they would have recognized.

21 Q. Now, in August of 2009, did Ally Bank
22 change the way it recognized the revenue and
23 expenses from this arrangement?

24 A. No.

25 Q. Was there a switch to fair value

1 C. Dondzila

2 accounting by Ally Bank in August of 2009?

3 MR. LIPPS: That she's aware of.

4 Q. That you are aware of?

5 MR. LIPPS: Because she's not Ally

6 Bank's designated. Go ahead.

7 A. Yes, I'm aware that Ally Bank for

8 loans funded after July 31 of 2009 made a fair

9 value election.

10 Q. And did that affect, Ally Bank's fair
11 value election affect the economics from
12 GMACM's perspective?

13 A. No.

14 Q. So as a result of the fair value
15 election, it's your testimony that GMACM did
16 not retain -- receive less profit on the sale
17 of the loans than it otherwise would have?

18 MR. LIPPS: Objection to form, but
19 go ahead.

20 MS. WU: Objection to form.

21 A. There was no impact from the fair
22 value election on the value of the loans.

23 Q. Did Ally do anything in August of
24 2009 that led to GMACM receiving less profit on
25 the sale of the loans in connection with the

1 C. Dondzila

2 brokered arrangement?

3 MS. WU: Objection to form.

4 MR. LIPPS: Same objection.

5 A. To my knowledge, Ally, in this case,
6 Bank, did not do anything to affect the
7 profitability recorded.

8 Q. Now, did there come a time where Ally
9 required GMACM to reimburse Ally for revenues
10 that had been recognized in the first half of
11 2009?

12 A. There was a reimbursement from GMAC
13 Mortgage to Ally Bank that related to that
14 period that was the result of an error in the
15 implementation of changes to the accounting
16 process.

17 Q. And can you describe the error in
18 implementation of changes to the accounting
19 process?

20 A. The profiles that were established,
21 which profiles direct the systems to put debits
22 and credits -- and debits and credits meaning
23 revenues and expenses -- and to record those in
24 the financial records of the company, there was
25 one item that continued to post and shouldn't

1 C. Dondzila

2 have, and that increased the revenues or
3 decreased the expenses, whichever way you want
4 to think about it, of GMAC Mortgage. And that
5 was at the detriment of Ally Bank.

6 Q. What was the item that continued to
7 post and shouldn't have?

8 A. It was a line, I think the name of
9 the line on the ledger was a FAS 91 was the
10 descriptor. It included some reference to FAS
11 91.

12 Q. And do you have any knowledge of the
13 size of the purported error?

14 A. The error that was identified and
15 reimbursed was approximately \$48 million. I
16 don't know if that includes the lost interest
17 or not, but it was in or around \$48 million.

18 Q. How was the error identified?

19 A. In late 2011, a member of the Ally
20 Bank organization raised concerns about
21 recordation and recognition of revenue in the
22 context of this arrangement between Ally Bank
23 and GMAC Mortgage/ResCap. That concern led to
24 a much more significant analysis on the part of
25 the finance team, finance and accounting team

1 C. Dondzila

2 at GMAC Mortgage, and included some members of
3 the Ally Bank accounting team.

4 That analysis was -- continued all
5 the way through to, I believe, the end of
6 February, early beginning of March, at which
7 point, after a fairly comprehensive review of
8 underlying documents, discussions with other
9 parties throughout the organization who were
10 part of the accounting or part of other parts
11 of the business process, that -- and also a
12 review of the governing legal documents,
13 including with outside counsel, we concluded
14 that there had been an error.

15 That information was summarized, was
16 shared with -- in my part, I'm aware was shared
17 with the audit committee at ResCap, and the
18 correction was made and the settlement was, I
19 believe, executed in March of 2012.

20 Q. That's two months before the
21 bankruptcy; right?

22 A. Yes, that is correct.

23 Q. Okay. And the individual that raised
24 the concern was Adam Glassner; is that correct?

25 A. That is my understanding, yes.

1 C. Dondzila

2 Q. Did Mr. Glassner leave the company
3 thereafter?

4 MR. LIPPS: By the company, you
5 mean Ally Bank?

6 MR. PERRY: Ally Bank.

7 A. I believe Mr. Glassner left Ally Bank
8 at the end of January of 2012 or the early part
9 of February 2012.

10 Q. Do you know if he left as a result of
11 his concerns about this particular issue?

12 A. I am not privy to that information,
13 as he was an -- an Ally Bank employee.

14 Q. Now, KPMG was retained to perform an
15 investigation; right?

16 MR. LIPPS: Retained by? Are you
17 asking her whether she did it?

18 Q. Do you know whether KPMG was retained
19 to perform an investigation?

20 A. The head of internal audit, Ann
21 Cummings, an Ally Financial employee to my
22 knowledge, in partnership with the head of
23 global security of Ally Financial, did engage
24 KPMG to perform an investigation under their
25 collective direction.

1 C. Dondzila

2 Q. So Ally retained KPMG to perform the
3 investigation; correct?

4 A. That is correct.

5 Q. Did ResCap or GMACM retain their own
6 advisors to perform an investigation on behalf
7 of GMACM?

8 A. We did not.

9 Q. Why not?

10 A. Ally Financial, in terms of internal
11 audit and in terms of global security, provided
12 services to ResCap in those capacities, and we
13 leveraged the work of those experts jointly.

14 Q. Did you understand the experts to
15 represent GMACM as well as Ally Financial?

16 A. I did not understand that directly.

17 Q. Did GMACM rely on the work of KPMG in
18 connection with their decision to -- well,
19 strike that.

20 How was the alleged accounting error
21 dealt with on GMACM's books?

22 A. We reopened the -- well, they weren't
23 closed officially, but we recorded the loss
24 that -- the amount of the error that we had
25 calculated as an expense or loss in the income

1 C. Dondzila

2 statement of GMAC Mortgage for the fiscal year
3 ended December 31, 2011.

4 Q. Why wasn't it dealt with by just a
5 straight cash settlement?

6 A. Debits have to equal credits, so
7 we -- if you -- I can make a cash settlement,
8 which would credit cash, but I have to have a
9 debit, and so my debit was that I had a loss,
10 which that was my earnings were overstated in a
11 prior period, so I had to recognize that loss.

12 Q. Okay. Was there any -- was there any
13 cash paid by GMACM in connection with the
14 settlement?

15 A. That, I do not recall.

16 Q. Do you know -- can you describe what
17 it was about the accounting practices between
18 the beginning of 2009 and later in 2009 --
19 well, strike that.

20 The -- were the accounting practices
21 with respect to the line item that you
22 discussed earlier in your testimony consistent
23 throughout 2009?

24 A. No.

25 Q. When were they changed?

1 C. Dondzila

2 A. On or about the fair value election.

3 Q. And when did the fair value election
4 occur?

5 A. All loans funded subsequent to
6 January -- or July 31, 2009.

7 Q. Okay. And at the time of the fair
8 value election, why did no one go back to the
9 beginning of the year and change the accounting
10 treatment that ultimately was changed at the
11 time of the fair value election?

12 A. It was a control issue and should
13 have been something that we would have picked
14 up, hence the designation as an error.

15 Q. And Mr. Glassner's concern was not
16 the pre-July 31, 2009 error. Mr. Glassner had
17 a concern that the post-July 31, 2009 change
18 was, in fact, detrimental to GMACM; right?

19 MR. LIPPS: Objection to the
20 characterization, but go ahead.

21 MS. WU: Objection. Same
22 objection.

23 A. I never spoke directly with
24 Mr. Glassner, and I don't know him to have
25 time-banded it to a period of post-August 1 or

1 C. Dondzila

2 any other period. I was aware that he raised
3 concerns that ResCap was entitled to more
4 revenue than they had been recognizing.

5 Q. Okay.

6 A. The period, I am not certain that he
7 made that clear.

8 Q. And what did you understand
9 Mr. Glassner's concerns to be, particularly
10 about why ResCap was entitled to more revenue
11 than they were getting?

12 A. Again, I never spoke directly with
13 Mr. Glassner. I was just aware that he had
14 spoken to members of the leadership team and
15 that his concern was that ResCap was entitled
16 to more of the revenue than they were
17 receiving. I had subsequently understood it to
18 be something to do with the revenue recognition
19 around what people internally started calling
20 premium pricing, but points, premium pricing,
21 etc.

22 Q. And do you understand what
23 Mr. Glassner's position was about how points or
24 premium pricing ought to be recognized as
25 between Ally Bank and GMACM?

1 C. Dondzila

2 A. We explored all the facets once the
3 issue was raised. We were not limiting
4 ourselves to one direction or another. We I
5 believe fairly comprehensively explored all
6 aspects of the relationship for the entire time
7 period covered. So that included a
8 consideration of whether more revenue --
9 whether the revenue splits should have been in
10 a different direction, but we did review both
11 sides.

12 Q. And when you say "we," who was it who
13 reviewed both sides?

14 A. We had a fairly extensive team
15 internally within ResCap and certain
16 representatives from Ally Bank as well.
17 Myself, Jim Whitlinger, Nikki Rock, Ryan
18 Kendrick, Colleen Cowley. We probably
19 brought in, you know, subject matter experts
20 from a variety of different parts of the
21 finance and accounting department. Joe Cortese
22 was contributing and participating as the
23 controller at the time of Ally Bank.

24 Q. Did Mr. Cortese attend all of the
25 meetings that you had on this subject?

1 C. Dondzila

2 MS. WU: Objection to form.

3 A. I don't know that he attended every
4 meeting.

5 Q. Did he attend most of the meetings on
6 this subject?

7 A. Again, he was involved. I don't know
8 if it was most, if it was some, or if it was --
9 I know it wasn't all.

10 Q. It was between you and Mr. -- did
11 Mr. Cortese take the lead from the Ally Bank
12 side on the investigation?

13 MS. WU: Objection to form.

14 A. Yes, my understanding is that Joe
15 Cortese was -- in terms of the work that we
16 were doing prior to the investigation that was
17 undertaken by internal audit and global
18 security, that Joe Cortese was participating on
19 behalf of Ally Bank and was reporting to his
20 leadership team.

21 Q. How many people were involved on the
22 Ally Bank side of the investigation?

23 A. Well, so the investigation that
24 internal audit and global security performed,
25 there were more people because they conducted

1 C. Dondzila

2 interviews. I would say that we probably had
3 working with our group, which predated that, it
4 would have been Joe Cortese, and then again as
5 there were subject matter experts that were
6 part of the original working group or otherwise
7 had knowledge, I'd say it was probably three or
8 four other people from the bank that would have
9 participated in some capacity.

10 Q. About how long did -- prior to the
11 internal audit, global security investigation,
12 how long did the review that Mr. Cortese and
13 others did take?

14 A. We started in the middle of December.
15 I recall that the issue was first brought to my
16 attention, you know, sort of the middle of
17 December of 2011. And I believe that internal
18 audit was brought into the process in late
19 January of 2012.

20 Q. Did ResCap have an internal audit
21 staff, its own internal audit staff?

22 A. We did not.

23 Q. Were ResCap's auditors at Deloitte &
24 Touche advised of the issue?

25 A. Absolutely.

1 C. Dondzila

2 Q. When were they advised?

3 A. I would expect it would have come up
4 in January. I can't be certain of the exact
5 date, but it would have come up in January of
6 2012.

7 Q. Who were Ally's outside auditors?

8 A. Deloitte & Touche.

9 Q. And did you advise Deloitte & Touche
10 of the issue or did Mr. Cortese or somebody
11 else from Ally?

12 MS. WU: You mean the bank?

13 MR. PERRY: Sure.

14 A. So I would have only dialogued with
15 Deloitte & Touche in the context of ResCap.
16 However, we would have obviously disclosed that
17 it was a matter that we were exploring that
18 related to a contract or an arrangement that we
19 had with Ally Bank. And the same -- I believe
20 we at that point in time had the same partner
21 on our engagements, so they would have been
22 aware even though I was not representing Ally
23 Bank.

24 Q. Did the FTI firm become involved in
25 the issue at all?

1 C. Dondzila

2 A. I don't recall FTI being involved in
3 this one.

4 Q. Did ResCap retain outside counsel in
5 connection with this issue?

6 A. We did not uniquely retain outside
7 counsel for this issue in and of itself, no.

8 Q. What do you mean by that answer?

9 A. We used counsel that were -- we were
10 already working with.

11 Q. Okay. Was that restructuring
12 counsel?

13 A. It was.

14 Q. Was that Morrison & Foerster?

15 A. Morrison & Foerster.

16 Q. Did Ally Bank retain outside counsel
17 in connection with this issue?

18 A. I don't know the answer to that
19 question.

20 (Dondzila Exhibit No. 16 was marked for
21 identification.)

22 BY MR. PERRY:

23 Q. Before you is Dondzila Deposition
24 Exhibit Number 16. Can you identify this
25 document?

1 C. Dondzila

2 A. Yes, I can.

3 Q. What is the document?

4 A. This is the materiality analysis
5 under the Professional Guidelines SAP 99 and
6 108 related to the determination of the
7 significance of the error to previously issued
8 and currently to-be issued financial
9 statements.

10 Q. Who drafted the memo?

11 A. I did, sir.

12 Q. Did you review any memos prepared by
13 Mr. Cortese with respect to this subject?

14 MR. LIPPS: By "this subject," you
15 mean her materiality analysis?

16 MR. PERRY: Yeah.

17 A. I don't recall reviewing the Ally
18 Bank materiality memo, but I would not be
19 surprised if I had been provided a copy. But I
20 don't recall reviewing it.

21 Q. Did you cut and paste any pieces of
22 the Ally Bank materiality analysis?

23 A. I did not.

24 Q. Do you know whether -- well, let's do
25 number 7.

1 C. Dondzila

2 (Dondzila Exhibit No. 17 was marked for
3 identification.)

4 BY MR. PERRY:

5 Q. Before you is Dondzila Deposition
6 Exhibit 17. Can you identify this document?

7 A. It's a memo from Joe Cortese, the
8 Ally Bank chief accounting officer, to the Ally
9 Bank 2011 financial statement files. And it --
10 the subject line being there "Materiality
11 analysis under professional standards SAP 99
12 and 108 in regards to the error."

13 Q. And you'll see his subject line is
14 the exact same subject line as your subject
15 line; correct?

16 A. Correct.

17 MR. LIPPS: Objection. The
18 document speaks for itself.

19 Q. Did you review Mr. Cortese's memo
20 before it was finalized?

21 MR. LIPPS: Objection, asked and
22 answered. Go ahead.

23 A. I would have no reason to have
24 reviewed his document, but could have received
25 it, but would have had no reason to have seen

1 C. Dondzila

2 this.

3 Q. Did Mr. -- did you provide
4 Mr. Cortese with a copy of your memo prior to
5 finalizing?

6 A. I do not recall it -- if I provided
7 it to Joe.

8 Q. Do you recall Mr. Cortese reviewing
9 and commenting on your memo, Dondzila
10 Exhibit 16?

11 A. I do not.

12 Q. Who else reviewed Dondzila Exhibit 16
13 before it was finalized?

14 A. I would have shared it with Jim
15 Whitlinger, chief financial officer at the
16 time. Barb Westman in all likelihood also
17 participated in -- and had an opportunity to
18 review and comment on the memo. It ultimately
19 was obviously provided to members of the audit
20 committee and other executive team members.

21 Q. Did Mr. Cortese -- well, strike that.
22 Was this memo, Dondzila Exhibit 16,
23 provided to the audit committee?

24 A. Yes.

25 MR. LIPPS: Objection, asked and

1 C. Dondzila

2 answered.

3 THE WITNESS: Sorry.

4 A. Yes.

5 Q. Do you know whether Mr. Cortese's
6 email, memorandum, was provided to the ResCap
7 audit committee?

8 A. Joe Cortese's memo in regards to
9 materiality of Ally Bank would not have been
10 provided to the ResCap audit committee.

11 (Dondzila Exhibit No. 18 was marked for
12 identification.)

13 BY MR. PERRY:

14 Q. Before you is Dondzila Deposition
15 Exhibit 19 [sic]. Can you identify the
16 document?

17 A. I know this to be 18.

18 MR. PERRY: Is it 18 or 19?

19 THE REPORTER: It's 18, sir.

20 A. These were materials that were
21 distributed to the members of the Residential
22 Capital LLC audit committee in connection with
23 a meeting on Tuesday, March 20, 2012.

24 Q. Do you recall -- it says here the
25 meeting occurred at 7:30 a.m. Is that

1 C. Dondzila

2 accurate, to the best of your recollection?

3 A. To the best of my knowledge, that's
4 the time the meeting was held.

5 Q. Was that a telephonic meeting?

6 A. It was.

7 Q. Where were you during the meeting?

8 A. I don't recall where I was.

9 Q. Did you take the call with other
10 members of your staff or your colleagues?

11 A. I don't recall.

12 Q. Were any representatives of Ally Bank
13 present at the meeting?

14 A. No.

15 Q. Did any representative of Ally Bank
16 receive any of these materials distributed to
17 the ResCap audit committee prior to the
18 distribution?

19 A. The report of Ann Cummings and global
20 security would in all likelihood have been
21 distributed to Ally Bank, and that is a
22 component of the materials included.

23 There is an -- and that would include
24 various appendices that are attached to that
25 report, and also summaries of the global

1 C. Dondzila

2 security investigation report. They could have
3 received copies of those. I'm not privy to
4 whether they did or not, but those are not --
5 it would not surprise me if they had received
6 that information.

7 Q. Your memorandum was supplied to the
8 audit committee; correct?

9 A. It was.

10 MR. LIPPS: Objection, asked and
11 answered.

12 Q. And that's reflected at RC40022125;
13 correct?

14 MR. LIPPS: It's the first page of
15 it.

16 A. Correct. The first page of the memo
17 is at that Bates number, correct.

18 Q. If you go to the conclusion on the
19 last page, it says we -- the very last in
20 brackets, "We shared this memo with external
21 auditors who have concurred with the
22 conclusion. We also shared the results of this
23 analysis with the audit committee on March" --
24 and then it's got an open date, "prior to
25 March," then it's got another open date,

1 C. Dondzila

2 "filing of the December 31, 2011 ResCap and
3 GMAC Mortgage annual financial statements." Do
4 you see that?

5 A. I do.

6 Q. Was the memo updated at some point
7 after the meeting to reflect the fact that the
8 meeting had occurred?

9 A. That would be consistent with my
10 expectation, yes.

11 Q. Now, we looked at Dondzila Exhibit 16
12 previously. It's dated March 10. Do you know
13 whether Dondzila Exhibit 16 was edited in
14 advance of the audit committee meeting?

15 A. I don't know. It's possible.

16 Q. Just to -- well, you'd agree with me
17 that Dondzila Exhibit 16 is a 12-page document,
18 whereas the copy of the memorandum provided to
19 the audit committee is a 13-page document;
20 right?

21 MR. LIPPS: Objection. The
22 document speaks for itself, but you can
23 make the comparison.

24 A. Yes, that's correct.

25 Q. In the intervening ten days between

1 C. Dondzila

2 your initial memoranda at Dondzila Exhibit 16
3 and the memorandum provided to the audit
4 committee, do you recall changes being
5 suggested by Ally Bank personnel?

6 A. No.

7 Q. Do you recall sharing Dondzila
8 Exhibit 16 with Ally Bank personnel?

9 MS. WU: Objection.

10 MR. LIPPS: Objection, asked and
11 answered. Go ahead.

12 MS. WU: Same. Same objection.

13 A. I don't recall, but could have.

14 Q. And go back to the audit committee
15 meeting. About how long did it last?

16 MR. LIPPS: On the 20th?

17 MR. PERRY: On the 20th.

18 A. I don't recall that it went over the
19 scheduled hour.

20 Q. And who spoke at the meeting?

21 A. As I recall, Ann Cummings -- we'd
22 need to consult the minutes, but the chairman
23 of the audit committee would have called it to
24 order, Pam West, and Ann Cummings, along with
25 potentially could have been introduced by

1 C. Dondzila

2 Mr. Solomon, but Ann Cummings and the global
3 security representatives would have presented
4 their report, and upon completion of the audit
5 committee members' review of those materials
6 and any questions or answers for Ann, it would
7 have been handed over to me and I would have
8 been responsible for presenting the materiality
9 analysis.

10 Mr. Tom Robinson and Carol Larson,
11 who was the lead partner on the Ally Financial
12 audit, and the sort of relationship partner,
13 could have also been called upon to speak about
14 their conclusions, concurrence or otherwise,
15 with management's conclusion in this regard.
16 But we'd have to look at the minutes for
17 certainty.

18 MR. PERRY: Why don't we -- I'm
19 getting a note on the tape so why don't
20 we give him a chance to change the tape,
21 and if you want to take a break.

22 THE VIDEOGRAPHER: The time is
23 3:41. We're off the record.
24 (Recess taken.)

25 THE VIDEOGRAPHER: The time is

1 C. Dondzila

2 3:48. We're on the record.

3 BY MR. PERRY:

4 Q. Who is Ann Cummings?

5 A. Ann Cummings was the head of internal
6 audit for Ally Financial, Inc. at the time of
7 this investigation.

8 Q. And who is Carol Larson?

9 A. Carol Larson is the relationship and
10 lead partner from Deloitte & Touche for the
11 Ally Financial services that Deloitte provides.

12 Q. Who is the audit partner at this
13 point in time for Residential Capital LLC?

14 A. Tom Robinson.

15 Q. Did Mr. Robinson provide any audit
16 services for Ally Bank as far as you know?

17 A. I believe that Mr. Robinson did, in
18 fact, provide audit services to Ally Bank at
19 the time.

20 Q. Was anybody from the Morrison
21 Foerster firm at the meeting?

22 MR. LIPPS: By the meeting, you
23 mean the March 20 audit committee
24 meeting?

25 MR. PERRY: Yeah.

1 C. Dondzila

2 Q. Was anybody from the Morrison
3 Foerster firm at the March 20, 2012 audit
4 committee meeting?

5 A. No, I don't believe any of the
6 attendees were from Morrison & Foerster.

7 Q. And who did most of the talking at
8 the meeting?

9 MR. LIPPS: I think that's been
10 asked and answered, but go ahead. So
11 I'll note my objection.

12 A. I don't know exactly how to split the
13 time, but I would guess that both Ann Cummings
14 on behalf of the work performed by herself and
15 global security, and in terms of presenting the
16 information from the experts that they hired,
17 KPMG, she and I would have probably shared
18 the -- done the lion's share of the talking at
19 the meeting.

20 Q. Was anybody from KPMG actually at the
21 meeting?

22 A. As I recall, there was at least one
23 representative on the phone from KPMG.

24 Q. Is that -- did that person talk at
25 all?

1 C. Dondzila

2 A. I don't recall if he spoke.

3 Q. Was that person identified on the
4 distribution here?

5 A. No, I do not believe, no.

6 Q. Did members of the audit committee
7 ask any questions during the meeting?

8 A. Yes.

9 Q. Who asked questions?

10 A. We have a very active audit
11 committee, so I would not be surprised to have
12 gotten a number of questions from the chairman
13 of the audit committee, Pam West, and Ted
14 Smith. I do not recall if Mr. Ilany or
15 Mr. Mack had any specific questions that they
16 asked.

17 Q. Did anybody from the audit
18 committee -- well, strike that.

19 Was there any discussion at the audit
20 committee meeting about whether the accounting
21 treatment that was changed in August of 2009,
22 whether ResCap approved that change?

23 MR. LIPPS: Objection to form.

24 MS. WU: Same objection.

25 A. What accounting change in 2009?

1 C. Dondzila

2 Q. Well, as I understand your testimony,
3 when there was a change to fair value
4 accounting, that resulted in the accounting for
5 the brokered consumer loans being changed in a
6 way that affected the accounting and the
7 revenue recognized going forward. Is that
8 fair?

9 A. I wouldn't characterize it as an
10 accounting change. I would characterize it as
11 an error in the underlying accounting process,
12 but it wasn't an accounting change.

13 Q. Okay. So it was an error that was
14 corrected in August of 2009?

15 A. No, it's an error that was identified
16 in 2012 and corrected in 2011 financial
17 statements.

18 Q. Okay. But here's my question. So in
19 August of 2009, something changed; right?

20 MR. LIPPS: Objection, asked and
21 answered, but go ahead.

22 MS. WU: Same objection.

23 A. In August in 2009, yes, there was a
24 change to the operational accounting process as
25 a result of the fair value election.

1 C. Dondzila

2 Q. And the change in the operational
3 accounting process, at least in your view,
4 corrected the error in the accounting process
5 at least up to July 31, 2009; right?

6 A. So the answer is yes, but the error
7 actually persisted past August 1 of 2009
8 because it related to loans that were brokered
9 to the bank, and the error would manifest
10 itself when they were finally sold.

11 So as loans that were brokered to the
12 bank all the way up through July 31, those
13 loans -- we had losses that we incurred, or we
14 had -- the error manifested itself and
15 continued to manifest itself through the end of
16 2009 because it was more attached to the timing
17 of when the loans were funded and then sold.

18 So there was no issue with loans that
19 were funded after July 31 of 2009.

20 Q. I think I understand. And so when
21 you say that the error persisted past August 1,
22 2009, it persisted at least as it respected
23 loans brokered prior to August 1, 2009, but not
24 sold until after August 1, 2009; right?

25 A. That is correct.

1 C. Dondzila

2 Q. Okay. And there was a change in the
3 operational accounting process which resulted
4 in loans brokered after August 1, 2009, not
5 having this error; correct?

6 A. That is correct.

7 Q. And so that I understand it, what was
8 the nature of the error that existed prior to
9 August 1, 2009?

10 MR. LIPPS: On loans brokered prior
11 to?

12 MR. PERRY: On loans brokered prior
13 to that date.

14 MR. LIPPS: Just note my objection.

15 It's been asked and answered. But go
16 ahead.

17 A. There was a component of the
18 transaction that was included in the
19 recordation of those loans into the financial
20 records that carried a title that included in
21 some way, shape, or form, may not have solely
22 said this, but said FAS 91. And for loans that
23 were brokered prior to July 31 or prior to
24 August 1 of 2009, that amount resulted in an
25 understatement of revenue for Ally Bank and an

1 C. Dondzila

2 overstatement of revenue for GMAC Mortgage.

3 For loans originated after August -- after

4 July 31 of 2009, because there are no FAS 91

5 deferrals, the operational team removed that

6 line from the profiles in the accounting

7 recordation and it was no longer distorting the

8 revenue split between the two entities.

9 Q. When you say distorting the revenue

10 split, so just focusing pre-August 1, 2009,

11 what was the revenue split that resulted from

12 the FAS 91 deferral being applied?

13 A. Again, that was the approximately 47

14 or \$48 million that we -- again I'm not sure if

15 that does or doesn't have the interest number

16 in it, but it was in that range.

17 Q. And is there a way to break it out on

18 a particular loan-by-loan basis what aspect of

19 the loan was being -- resulted in revenue to

20 GMACM that changed after August 1, 2009?

21 MR. LIPPS: Objection to form.

22 A. If you look at the loan examples for

23 the respective periods, yes, you would be able

24 to identify what I'm describing.

25 Q. Okay. Do you recall as you sit here

1 C. Dondzila

2 today what the particular items were that
3 changed after August 1, 2009?

4 MR. LIPPS: Objection, asked and
5 answered. Go ahead.

6 A. Again, it was -- I don't remember the
7 individual components of what was going to that
8 line that I just described that had the name in
9 whole or in part FAS 91. But it's that amount.

10 Q. Okay. Now, did -- at the time the
11 change occurred and FAS 91 deferrals were no
12 longer applied, was there any GMACM employee
13 that either agreed or disagreed with that
14 change?

15 A. We understood -- we, myself and my
16 team -- building the accounting that we did
17 because we, actually, GMAC Mortgage, did a fair
18 amount of the accounting, operational
19 accounting on behalf of Ally Bank, and we
20 understood that FAS 91 deferrals were no longer
21 appropriate in a fair value election schema,
22 accounting scheme.

23 Q. And when did you come, you or your
24 team come to that understanding?

25 A. As we were working through the

1 C. Dondzila

2 implementation to make that change on behalf of
3 the bank.

4 Q. So this was in 2009?

5 A. This would have been in 2009, yes.

6 Q. Okay. And did you discuss the
7 deferral -- this change in accounting treatment
8 with anybody that you reported to?

9 A. Jim Young was aware at the same time
10 that Ally Bank made the election, Residential
11 Capital/GMAC Mortgage made the same election,
12 and so Jim Young as the chief financial officer
13 at the time would have been aware and would
14 have been required to approve us making the
15 fair value option election on behalf of GMAC
16 Mortgage and Residential Capital.

17 Q. Well, did you have a conversation
18 with Jim Young where you said, look, in words
19 or in substance, making the fair value election
20 will result in less revenue to GMACM because of
21 the FAS 91 deferral issue?

22 A. The fair value election did not
23 create or change the revenue distribution
24 between the two entities. Implementing the
25 change that we needed to make for the fair

1 C. Dondzila

2 value election, unbeknownst to us, corrected an
3 error that we had that should have been made in
4 the broker to bank implementation.

5 Q. Okay. It's the unbeknownst part to
6 us that I'm focused on. At some point, there's
7 a change to fair value accounting, and that
8 corrects what you've described is an error that
9 was previously extant for loans brokered prior
10 to August 1, 2009.

11 And my question is: When did it
12 become known to you that the error had been
13 corrected in August 1, 2009?

14 MR. O'NEILL: Objection,
15 mischaracterizes the witness's
16 testimony.

17 MR. LIPPS: Same objection.

18 MS. WU: Same objection.

19 MR. LIPPS: Go ahead.

20 A. That would have become known in
21 February of 2012.

22 Q. Now, did the audit committee consider
23 taking the position, at least at the meeting
24 you were involved at -- involved with, taking
25 the position that the \$47 million was not

Plaintiff's
Objection
185:5-187:16
Beyond the
scope of
affirmative
testimony

1 C. Dondzila

2 payable to Ally Bank?

3 MR. LIPPS: You know there was more
4 than one meeting, so I -- do you want it
5 just to be confined to one meeting or
6 the meetings that the audit committee
7 had?

8 Q. Well, let me ask you this: How many
9 audit committee meetings were you at concerning
10 this particular issue?

11 A. I attended all audit committee
12 meetings unless I had a conflict, so I was an
13 expected attendee at every audit committee
14 meeting.

15 Q. And how many audit committee meetings
16 do you recall the brokered agreement FAS 91
17 deferral issue being discussed?

18 A. At least a handful.

19 Q. Okay. Was the meeting that occurred
20 on March 20, 2012 the final meeting on this
21 particular issue?

22 A. I believe the answer to that is yes.

23 Q. Okay. And in -- during the March 20,
24 2012 audit committee meeting, do you recall any
25 discussion of GMACM taking the position that

1 C. Dondzila

2 the \$47 million payment was not due, or the
3 \$47 million correction was not appropriately
4 due to Ally Bank?

5 A. Not at this meeting. I don't recall
6 that being a topic of conversation.

7 Q. Okay. Do you recall GMACM -- do you
8 recall the topic of GMACM taking the position
9 that the \$47 million payment was not due to
10 Ally Bank being the subject of conversation at
11 any other audit committee meeting that you
12 attended?

13 A. I don't recall it coming up
14 explicitly in an audit committee meeting. I
15 don't recall it being an explicit topic that we
16 discussed.

17 Q. And with respect to the March 20,
18 2012 meeting, was there any discussion about
19 whether Residential Capital LLC had
20 sufficient -- or GMACM had sufficient solvency
21 to make the \$47 million payment to correct the
22 FAS 91 deferral issue?

23 MR. LIPPS: Objection to form,
24 assumes facts not in evidence. Go
25 ahead.

1 C. Dondzila

2 A. As I recall, Residential Capital was
3 already in violation of its net worth
4 requirements at that point. This would have
5 obviously made that situation -- would have
6 compounded that situation, but as I recall, we
7 were already below our requirement. And there
8 could have been conversation about the fact
9 that this would put us below our required
10 threshold or would keep us below that.

11 Q. Do you recall one way or another?

12 MR. LIPPS: That discussion, or --

13 MR. PERRY: Yeah, that discussion
14 at an audit committee meeting.

15 A. I do recall discussing whether, at
16 this or potentially a previous, the -- a
17 previous meeting the applicability, if any, of
18 the outstanding commitment that Ally Financial
19 had made in connection with the December 2009
20 financial statements in terms of capital
21 support and what impact, if any, that would
22 have on our presentation or our materiality
23 analysis in the context of a prior period
24 error, meaning would we need to restate the
25 2009 financial statements, and what standing,

1 C. Dondzila

2 if any, would the agreement that Ally had had
3 at that point in time to support the net worth
4 of ResCap have on that analysis. So I do
5 recall discussing that with the audit
6 committee. I do not know which meeting it was
7 at.

8 Q. So, just big picture, was Ally Bank a
9 lender to ResCap in any of these liquidity
10 facilities?

11 A. Ally Bank was not a lender to ResCap,
12 it was a counterparty to various contracts but
13 was not a lender to ResCap.

14 Q. Was there any concern either at the
15 March 20, 2012 audit committee meeting, or any
16 other meeting, that here you have a -- an
17 entity that's providing substantial credit
18 support to ResCap; right? And they're
19 demanding a \$47 million payment in March of
20 2012, when the entity is obviously in a lot of
21 financial distress, was that subject generally
22 discussed at any of the audit committee
23 meetings?

24 MR. LIPPS: Objection to form.

25 MS. WU: Same objection.

1 C. Dondzila

2 MR. LIPPS: Compound.

3 A. I'm not -- there were no
4 conversations that I would characterize
5 consistent with the way you described it that
6 occurred in any audit committee meetings I
7 attended.

8 Q. Was there a concern that if ResCap
9 took a different view with respect to the
10 \$47 million payment or settlement, that Ally
11 could or would take action with respect to any
12 of the liquidity facilities that it had
13 provided to ResCap?

14 MS. WU: Talking about Ally Bank or
15 Ally Financial? Because they're two
16 separate entities.

17 MR. PERRY: Either Ally Bank or
18 Ally Financial.

19 MR. LIPPS: Objection to form.

20 MS. WU: Same objection.

21 A. My involvement with the matter was to
22 determine what had happened and to participate
23 with the rest of management in concluding what
24 the answer was. I was not party to any
25 conversations such as you're suggesting

1 C. Dondzila

2 about -- that there could be adverse
3 consequences to reaching a conclusion that was
4 different than what we ultimately reached.

5 MR. PERRY: Give me 5 minutes.

6 THE VIDEOGRAPHER: The time is
7 4:12. We're off the record.

8 (Recess taken.)

9 (Dondzila Exhibit No. 19 was marked for
10 identification.)

11 THE VIDEOGRAPHER: The time is
12 4:34. We're on the record.

13 BY MR. PERRY:

14 Q. Okay. Before you is Dondzila
15 Deposition Exhibit 19. Can you identify this
16 document?

17 A. Yes, I can. These are the minutes of
18 the meeting, the telephonic meeting of the
19 Residential Capital audit committee that had
20 been held on March 20, 2012, at 7:30 a.m.
21 Eastern.

22 Q. There's a reference to Jack Levy from
23 Morrison Cohen. Do you know who he
24 represented?

25 A. I do not know who he represented.

1 C. Dondzila

2 Q. Going to the second page, there's
3 a -- the middle paragraph starting with the
4 text "Referring to the written materials that
5 have been previously distributed," it goes down
6 and it says: "Discussion included, among other
7 topics, quantitative and qualitative
8 assessments, matters associated with the
9 capital support agreements in place with Ally
10 at December 31, 2009 and '11, and consideration
11 of the 2009 restatement."

12 What do you recall the discussion
13 about -- what do you recall about the
14 discussion of matters associated with the
15 capital support agreements in place with Ally
16 at this audit committee meeting?

17 MR. LIPPS: Objection, I think
18 that's been asked and answered, but go
19 ahead.

20 A. That would have been in the context
21 of what impact, if any, those agreements that
22 were in place had in the matter of the
23 possibility of a restatement of the financial
24 statements, and the materiality of the error on
25 those previously issued 2009 financial

1 C. Dondzila

2 statements, and anything that would ultimately,
3 if we decided it was not going to be restated,
4 be recorded in 2011's financial statements.

5 MR. PERRY: I have no further
6 questions.

7 MR. LIPPS: All right. Anybody
8 else have any questions? All right,
9 concluded. We'll reserve the right to
10 read and sign.

11 THE VIDEOGRAPHER: The time is
12 4:36. We're off the record.

13
14 (Deposition adjourned at 4:36 p.m.)

15
16 _____
17 CATHY DONDZILA

18 SUBSCRIBED AND SWORN TO BEFORE ME
19 THIS _____ DAY OF _____, 2013.

20 _____
21 (Notary Public)

22 My Commission expires: _____

23
24
25

1 C. Dondzila

2 C E R T I F I C A T E

3 DISTRICT OF COLUMBIA:

4

5 I, MARY ANN PAYONK, Shorthand Reporter,
6 do hereby certify:

7 That the witness whose deposition is
8 hereinbefore set forth was duly sworn, and that
9 such deposition is a true record of the
10 testimony given by such witness.

11 I further certify that I am not related
12 to any of the parties to this action by blood
13 or marriage, and that I am in no way interested
14 in the outcome of this matter.

15 IN WITNESS WHEREOF, I have hereunto set
16 my hand this 17th day of October, 2013.

17

18

19 MARY ANN PAYONK, Shorthand Reporter
20 Washington, D.C.

21

22

23

24

25

1 C. Dondzila

2 - INDEX TO WITNESSES -

3 CATHY DONDZILA PAGE

4 Examination by Mr. Perry 7

5 - INDEX TO EXHIBITS -

6 NO. MARKED

7 Exhibit No. 1 15

8 Exhibit No. 2 29

9 Exhibit No. 3 38

10 Exhibit No. 4 39

11 Exhibit No. 5 46

12 Exhibit No. 6 49

13 Exhibit No. 7 54

14 Exhibit No. 8 66

15 Exhibit No. 9 79

16 Exhibit No. 10 105

17 Exhibit No. 11 109

18 Exhibit No. 12 123

19 Exhibit No. 13 128

20 Exhibit No. 14 130

21 Exhibit No. 15 137

22 Exhibit No. 16 166

23 Exhibit No. 17 168

24 Exhibit No. 18 170

25 Exhibit No. 19 191

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1 C. Dondzila

2 NAME OF CASE: In Re Residential Capital

3 DATE OF DEPOSITION: October 17, 2013

4 1. To clarify the record.
2. To conform to the facts.
5 3. To correct transcription error.

6 Page _____ Line _____ Reason _____

7 From _____ to _____

8 Page _____ Line _____ Reason _____

9 From _____ to _____

10 Page _____ Line _____ Reason _____

11 From _____ to _____

12 Page _____ Line _____ Reason _____

13 From _____ to _____

14 Page _____ Line _____ Reason _____

15 From _____ to _____

16 Page _____ Line _____ Reason _____

17 From _____ to _____

18 Page _____ Line _____ Reason _____

19 From _____ to _____

20 Page _____ Line _____ Reason _____

21 From _____ to _____

22 Page _____ Line _____ Reason _____

23 From _____ to _____

24 CATHY DONDZILA

25 SUBSCRIBED AND SWORN TO BEFORE ME

26 THIS _____ DAY OF _____, 2013.

27 _____
28 (Notary Public)

29 My Commission expires: _____

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1 C. Dondzila

2 statements, and anything that would ultimately,
3 if we decided it was not going to be restated,
4 be recorded in 2011's financial statements.

5 MR. PERRY: I have no further
6 questions.

7 MR. LIPPS: All right. Anybody
8 else have any questions? All right,
9 concluded. We'll reserve the right to
10 read and sign.

11 THE VIDEOGRAPHER: The time is
12 4:36. We're off the record.

13

14 (Deposition adjourned at 4:36 p.m.)

15 Cathy Dondzila

16 CATHY DONDZILA

17 SUBSCRIBED AND SWORN TO BEFORE ME

18 THIS 18 DAY OF November, 2013.

19 ABRAHAM DOGU
20 (Notary Public)

21 My Commission expires: 12/31/2013



22

23

24

25

Deposition Errata Sheet

***In re Residential Capital, LLC, et al.,
Case No. 12-12020(MG)***

Deponent: Cathy Dondzila
Deposition Date: October 17, 2013

Citation	Testimony
19:6-7	would have <u>been</u> reconciled
20:14	and <u>regulatory compliance with requirements</u> <u>compliance with regulatory requirements</u> .
20:16	implementation <u>of</u> <u>by</u> our
35:25	sweep of cash would have resulted <u>from</u> <u>in</u> the
40:25	of -- upon disposition of <u>the</u> ResCap's assets and
45:16	<u>I'd have to</u> <u>to</u> look at the financial statements.
48:3	There <u>was</u> <u>were</u>
48:7	Mortgage <u>with</u> <u>to</u> service
58:10	it was a payable, <u>it</u> <u>you</u> would credit interest
63:11	<u>Brandy</u> <u>Brandee</u> Frank?
77:8	form, <u>it</u> just depended
84:22	two sibling entities <u>which</u> would be treated through
92:14	<u>revolving</u> <u>Revolver</u> and LOC are recorded
123:5	Mr. Lipps to my left, <u>Robert</u> to my far left;
123:7	And I'm forgetting the <u>last name of the</u> other Alex from
127:24	<u>Res</u> <u>Resi</u> Holdings
159:10	which <u>was</u> that <u>was</u> my earnings
167:5	Professional Guidelines <u>SAP</u> <u>SAB</u> 99
168:11	<u>SAP</u> <u>SAB</u> 99
182:13	approximately <u>\$47</u>
183:15	We understood -- <u>we</u> <u>me</u> , myself and my

Date: 11/17/13

Signed:

Cathy Dondzila
Cathy Dondzila